

of this State to such an extent that many thousands are unable to pay their taxes, and the fact that this is a Called Session of the Legislature and must end within a very few days creates an emergency and an imperative public necessity, which requires that the constitutional rule, providing that bills shall be read on three several days, be suspended, and said rule is hereby suspended, and that this Act take effect, and be in force, from and after its passage, and it is so enacted.

SIXTEENTH DAY.

Senate Chamber,
Austin, Texas,

Friday, September 21, 1917.

The Senate met at 9:30 o'clock a. m., pursuant to adjournment, and was called to order by President Pro Tem. Dean.

The roll was called, a quorum being present, the following Senators answering to their names:

Alderdice.	Hopkins.
Bailey.	Hudspeth.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Caldwell.	McCollum.
Clark.	McNealus.
Collins.	Page.
Dayton.	Parr.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Suiter.
Hall.	Westbrook.
Harley.	Woodward.
Henderson.	

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Alderdice.

Petitions and Memorials.

There were none today.

Committee Reports.

See Appendix.

Bills and Resolutions.

Senate Concurrent Resolution No. 3.

Whereas, It is necessary that copies of all enrolled bills in both the Senate and House be furnished to the State Printer by the Secretary of the State, and by such copies being furnished much time and expense can be saved the State; therefore, be it

Resolved by the Senate, the House of Representatives concurring, that the Enrolling Clerk of the Senate and the Enrolling Clerk of the House of Representatives be directed to make carbon copies of all enrolled bills that are sent to the Governor for his approval and be directed to furnish same to the Secretary of State. Said Enrolling Clerks of the Senate and House are hereby further instructed to immediately deliver to the office of Secretary of State copies of all enrolled bills passed by the Second Called Session of the Legislature, 1917.

CALDWELL.

The resolution was read and adopted.

Senate Concurrent Resolution No. 4.

Whereas, The Supreme Court of the United States in a recent decision has held to be unconstitutional the law under which the cotton tax fund was collected by the Federal government, and,

Whereas, Owing to the great number from whom it was collected and the difficulty of the establishment of the individual rights thereto, and

Whereas, The money has remained in the Federal Treasury for a half century unclaimed; and it becomes more and more difficult to establish a claim as time goes by, and

Whereas, There are none more worthy or who more truly represent the spirit of the South than those confederates from whom the taxes were collected and their widows, and

Whereas, If the Congress of the United States should appropriate money to repay these taxes it would enable the survivors of the confederacy to pass their remaining years in comparative comfort, and

Whereas, Said veterans and their decendants have proved their loyalty to their country by following the flag:

under the matchless Joe Wheeler in the Spanish-American War, and

Whereas, The hundreds of thousands have responded to the call of the peerless leader Woodrow Wilson to enlist in the cause of their country and fight against Germany; and for one-half of a century have helped to pay the pensions of the federal soldiers, it is right, just and equitable for the federal government to return to these veterans what is rightfully and morally theirs; and believing that the North and the Grand Army of the Republic would endorse this Act in justice to the decimated ranks of the gray.

Therefore, Be it resolved by the Senate, the House concurring, that we request our entire delegation in Congress at Washington to prepare, introduce and work for the passage of a bill to appropriate "the cotton tax fund" to the Confederate soldiers, sailors and their widows, and to order the payment thereof to each Confederate soldier, sailor and their widows in said monthly allowances as said fund will justify as long as such persons may live; therefore, be it further

Resolved, That a copy of this resolution be sent to each member of the Texas delegation in Congress and to our great President, Woodrow Wilson, by the Secretary of the Senate and the Chief Clerk of the House of the Texas Legislature.

DAYTON.

The resolution was read and on motion of Senator Dayton the same was laid on the table subject to call.

Message from the Governor.

Mr. S. Raymond Brooks here appeared with a message from the Governor, which the Chair laid before the Senate, as follows, to wit:

Governor's Office,
Austin, Texas, Sept. 20, 1917.
To the Thirty-fifth Legislature in Third Called Session:

I beg to submit for the consideration of your honorable body the following subjects:

1. Enactment of a law concerning impeachments of officers, providing what officers, agents and employes may be impeached by the House of Representatives and tried

thereon by the Senate, and providing for the convening of the House and Senate for such purposes.

2. Enactment of legislation to amend Chapter 161, Acts of the Regular Session of the Thirty-fifth Legislature, 1917, relating to the fees allowed sheriffs and constables in all cases when the charge is a felony.

Respectfully submitted,

W. P. HOBBY,
Acting Governor of Texas.

At Ease.

At 9:35 o'clock, Senator Collins moved that the Senate stand at ease for twenty minutes.

The motion prevailed.

In the Senate.

President Pro Tem. Dean in the chair.

The Senate as Court of Impeachment.

PROCEEDINGS.

Friday, September 21, 1917.

Morning Session.

Senate Chamber, Austin, Texas.

Hon. W. L. Dean, President Pro Tempore, presiding.

(Pursuant to adjournment, the Senate, sitting as a High Court of Impeachment, reconvened at 10:00 o'clock a. m.)

The Board of Managers and their Counsel were present.

The Respondent and his Counsel were present.

The Chair: Mr. Sergeant-at-Arms, the hour has arrived for the convening of the High Court of Impeachment. Proclaim the convening of the Court, and see that the Chamber is cleared of all except those entitled to its privileges.

Sergeant-at-Arms (at the door of the Senate): Oyez! Oyez! Oyez! the Senate, sitting as a High Court of Impeachment, is now in session.

The Chair: See that the bar is cleared of all except those who are entitled to its privileges. Let us have order, gentlemen.

General Crane: Mr. President, I have a long-distance call, if you will excuse me for a moment?

The Chair: Yes, sir. General Crane asks the indulgence of the Court for a few moments while he can attend to a long-distance telephone call.

Senator Bee: Mr. President.

The Chair: Senator Bee.

Senator Bee: Is the Senator from Dallas in the Chamber?

Senator McNealus: What is it?

Senator Bee: I want to ask the Senator from Dallas if he would have any objection, while we are waiting for the return of General Crane, to consider the resolution introduced by the Senator from Cooke this morning in reference to the restitution of cotton money unlawfully collected by the Federal Government during the Civil War?

Senator McNealus: No objection.

The Chair: The Chair will state to the Senator from Bexar that it will require a motion now for the Senate to reconvene, because the Court is convened.

Senator Bee: Yes, I just wanted to find out if there would be any objection before I made the motion.

The Chair: Yes, sir.

Senator Bee: I am informed, Mr. President, that there will be some debate on the question, and I will, therefore, withdraw the request at this time.

The Chair: All right.

(General Crane shortly returned to his seat at Counsel's table, whereupon the proceedings were resumed as follows, to wit:)

Sergeant-at-Arms: Order in Court, please.

The Chair: Do you want to wait for Mr. Harris?

General Crane: Sir?

Mr. Manager Bledsoe: The Chair said did you want to wait for Mr. Harris?

Senator Hanger: Wait until Mr. Martin comes, just a moment, please.

The Chair: Yes, I thought Judge Martin was here. All right.

(In a moment Judge Martin took his seat, at Counsel's table, whereupon the Chair said:)

The Chair: Let us have order, now, in Court. Are you ready, Mr. Hanger?

Mr. Hanger: Yes, sir.

The Chair: All right.

Thereupon, the Respondent,

JAMES E. FERGUSON,

resumed the witness stand, and in answer to questions propounded, further testified as follows, to wit:

Re-direct Examination

Resumed by Mr. Hanger.

Q. Governor, have you the Canyon City Normal papers and accounts there?

A. Yes, sir.

Q. Showing the amount received and—

A. As explanatory of the receipts.

Q. Yes?

A. —which I furnished yesterday. There is an item mentioned in the receipt of \$2170, which represents the money which Governor Colquitt had paid out before turning over the balance of the fund to me.

Q. Well, that was paid out for—

A. For—\$1500 for an architect, to Endress.

Q. And for advertising, and things of that sort?

A. Advertising purposes.

Q. Yes?

A. Here are the different items.

Q. That was necessary work for rebuilding, or the beginning the rebuilding and letting the contract for the new building?

A. Just as much a part of it as laying the brick.

Q. Yes, of course?

A. And these are the items.

Q. Yes, sir (taking papers).

Mr. Hanger: I suppose we had better read these in. First is a check,

Austin, Texas, November 20, 1914.

Pay to the order of George A. Endress, \$1500. Signed by O. B. Colquitt, Governor, Canyon Normal account.

And drawn on the First National Bank of Amarillo.

The second is a check for \$13.44, dated October 16, 1914, to the Express Publishing Company, on the First National Bank of Amarillo, and signed by O. B. Colquitt, Governor, and charged to the Canyon Normal fund.

Third, a check dated October 16, 1914, payable to the Houston Chronicle, for \$12.32.

The Chair: Mr. Hanger, pardon

me, how much was the second check?

Mr. Hanger: \$13.44.

The Chair: All right.

Mr. Hanger: The one I am now reading is \$12.32, drawn on the First National Bank of Amarillo, signed Governor O. B. Colquitt, charged to Canyon Normal fund.

The next is a check of same date, October 16, 1914, to the Dallas Morning News, for \$13.73, drawn on the First National Bank of Amarillo, signed by Governor O. B. Colquitt, charged to Canyon Normal fund.

The next is a check payable to the Austin Statesman, dated October 16, 1914, for \$12.96, drawn on the First National Bank of Amarillo, and signed as the others.

The next is a check to the Record Company, dated October 19, 1914, for \$11.62, drawn on the same bank and signed as the others.

The next is a check date October 16, 1914, to the Western Contractor, \$6.30, on the same bank, and signed as above.

The next is a check dated December 19, 1914, drawn on the First National Bank of Amarillo—

The Chair: Let us have order, please.

Mr. Hanger: Payable to the State Board of Normal Regents, \$600.22, I believe, signed as before, by Governor O. B. Colquitt:

The next is a telegram, dated Plainview, Texas, January 13, 1915. "O. B. Colquitt, Austin, Texas. Advise what disposition to make of certificate deposit Normal funds."

Senator Bee: Mr. Hanger, will you read a little louder, please?

Mr. Hanger: Yes, sir.

"Plainview, Texas, January 13, 1913. O. B. Colquitt, Austin, Texas. Advise what disposition to make of certificate deposit Normal funds.

"Third National Bank."

Here is a memorandum not dated, that was turned over to the Governor by Governor Colquitt (handing paper to General Crane for inspection).

Mr. Hanger: Ten thousand from Texas Trust Co. to Austin National Bank.

Twenty-five thousand in bank at Canyon City.

The second memorandum is:

By receipt on 19th.....	\$ 15,000.00
Third Nat'l, Plainview...	25,000.00
First Nat'l, Canyon.....	10,000.00
Payments to architect ..	1,500.00
Deficiency warrants ...	4,846.45
	<hr/>
	\$56,346.45

First National, Amarillo, 4 per cent daily balances.

And next are statements that have already been introduced—that is the one Mr. Harris had, was introduced the other day.

Q. Now, what is the next one?

A. Now, that is all the memorandums I have—unless you want to produce the check?

Q. Well, just as well, I think?

A. Yes—all right (handing paper to Mr. Hanger). The one on the table is the first.

Q. Yes, let's get the first.

Mr. Hanger: Now, the—we next introduce statement dated November 24, 1914—possibly meant for 1914, it says "1904."

General Crane: Yes, I guess that is what it is meant for.

Mr. Hanger: Rendered by the First National Bank of Amarillo to O. B. Colquitt, Governor, and down here it is dated November 24, 1914.

General Crane: Yes.

Mr. Hanger: It contains a statement of the various policies of insurance on the Canyon City Normal building.

General Crane: There is no trouble about that.

Mr. Hanger: There is no trouble, one of these policies is put on here twice by mistake, there is no doubt about that.

General Crane: No.

Mr. Hanger: The aggregate of \$102,199.66, and one of these is a duplicate on here, put on twice, instead of being on once, as it ought to be, so it ought to be \$102,199.66.

Senator McNealus: Speak a little louder, the Senators cannot hear you.

Mr. Hanger: Yes, sir, you are right. Accompanying that statement are various checks given, first a check dated November 14, 1914, to the Consumers Fuel & Ice Company, \$48.00—no, \$49.00, on the First National Bank of Amarillo, and signed by Governor Colquitt.

The second one of same date to E. W. Harvey, for \$647.68, on the

same bank, signed by Governor Colquitt.

The third one, dated the 13th day of November, 1914, payable to Fisher & Brother, \$98.64, on the same bank, and signed as before.

Senator Bee: Mr. President.

The Chair: Senator Bee.

Senator Bee: Will Senator Hanger state if he knows the purpose or reason for the checks that he is now reading, why they were given?

Mr. Hanger: It just shows the expenditure of the funds that came into his hands, in order to disclose that the amount that was received by Governor Ferguson was really \$101,607.18.

Senator Bee: Yes, I understand, but these checks, then, were expenditures incurred in connection with the Canyon State School.

Mr. Hanger: Oh, yes.

Senator Bee: That is all.

Mr. Hanger: Out of the fund, properly expense, no question about that.

Senator Bee: That is what I wanted to know.

Mr. Hanger: There was a certain definite amount collected.

Senator Bee: Yes, sir.

Mr. Hanger: Deducting these amounts spent, leaves exactly \$101,607.18.

Senator Bee: Yes, sir, I wanted to understand that.

Mr. Hanger: The next is a check dated June 26, 1914, on the Citizens Bank—no, it is a draft, customer's draft, on the First National Bank of Amarillo, drawn through the Citizens Bank and Trust Company, signed by O. B. Colquitt, Governor, paid to Texas Trust Company, Austin, Texas, \$10,000.00.

The next is a check on the First National Bank of Amarillo, dated May 1, 1914, paid to International Insurance Company, draft returned for endorsement, \$4,000.00, signed as before.

The next is a check of May 8, 1914, paid to First State Bank of Canyon, \$5,000.00, signed by O. B. Colquitt, by W. H. Fuqua, I think it is—

A. Fuqua, yes.

Mr. Hanger: The next is a check on the First National Bank of Amarillo, pay to First National Bank, Canyon, \$10,000, charge O. B. Colquitt, Governor.

The next is a check of May 8, 1914, on the First National Bank, of Amarillo, pay to Third National Bank of Plainview, \$25,000, O. B. Colquitt, Governor, by W. H. Fuqua.

Now, the next is a statement dated January 21, 1915, of the First National Bank of Amarillo, Texas, rendered to O. B. Colquitt, Governor, stating January 21, balance \$45,839.48. Jan. 21, canceled vouchers listed, \$4554.25 November 24, 1914, balance, \$49,833.70. Deposit First National Bank of Canyon, \$100; Austin National, \$154.17; First National of Amarillo, \$305.86.

The next is a check—is a telegram dated Amarillo, Texas, January 22, 1915.

"O. B. Colquitt, Austin, Texas. Balance Twentieth, forty-five thousand eight hundred thirty-nine dollars forty-eight cents. Statement follows."

That is this statement here that has just been read.

The next are various checks given on principally the First National Bank of Amarillo—first, one for \$29.40, to W. M. Killinn, I believe it is, signed by Governor Colquitt.

The second one for \$94.72, to Nelson Davis & Company, signed by Governor Colquitt—that is January 6, 1915.

The others were January 7, 1915.

Another of January 6, 1915, pay to Fisher & Brother, \$219.62, on the First National Bank of Amarillo, and signed by O. B. Colquitt.

The next is the 5th day of January, 1915, check on the First National Bank of Amarillo, the Excelsior Market, \$347.25, signed by Governor Colquitt.

The next is one dated January 6, 1915, to E. W. Harvey on the First National Bank of Amarillo, for \$621.14, signed by Governor Colquitt.

The next is to Steiner &—I don't know what the other name is (Kalkhoff)—\$2.50 on the same bank, signed by Governor Colquitt.

The next is a check dated November 23, 1914, to Plano Milling Company, on the First National Bank of Amarillo, signed by Governor Colquitt for \$58.44.

The next is a check dated the 25th day of November, 1914, to Nelson Davis & Company, \$478.55, on the

First National Bank of Amarillo, signed by Governor Colquitt.

The next is a check on the same bank, to Ed. H. Nitschke, I believe it is, \$182.87, dated November 30, 1914 on the same bank, signed by O. B. Colquitt, Governor.

The next is a check on the same bank to Ed. H. Nitschke, dated November 30, 1914, for \$19.60, signed by Governor Colquitt.

The next is to the Excelsior Meat Market on the First National Bank of Amarillo, dated December 1, 1914, for \$353.04, signed by Governor Colquitt, charged to Canyon Normal account.

The next is a check dated the 9th day of December, 1914, on the First National Bank of Amarillo, to Nelson Davis & Company, signed by Governor Colquitt, for \$242.16.

The next is to the Griffith Drug Company, on the First National Bank of Amarillo, dated December 17, 1914, for \$205.16, signed by Governor Colquitt, charged to Canyon Normal account.

The next is a check dated the 16th day of December, 1914, on the First National Bank of Amarillo for \$21.56, to Miss June Pase—I don't read that well—\$21.56, signed by Governor Colquitt.

The next is to Ed. H. Nitschke, dated the 7th day of December, 1914, for \$206.77, signed by Governor Colquitt.

The next is to McKean-Eilers & Company, dated the 7th day of December, 1914, on the First National Bank of Amarillo, for \$41.81, signed by Governor Colquitt, charged to Canyon Normal account.

The next is to C. W. Heath, on the First National Bank of Amarillo, dated the 17th day of December, and for \$7.35, signed as before.

The next is December 19th, to Nelson Davis & Company, on the First National Bank of Amarillo, for \$67.92, and signed as before.

The next is on the same bank, dated the 17th day of December, 1914, to Miss Myrtle Reynolds, for \$3.00, O. B. Colquitt, same account.

The next is to Fischer & Brother, on the same bank, dated December 3, 1914, for \$106.48, and signed as before.

The next is to E. W. Harvey, on the 4th of December, 1914, for

\$620.16, on the same bank, and signed as before.

The next is to Consumers Fuel & Ice Company, \$24.50, dated the 24th day of December, 1914, on the First National Bank of Amarillo, and signed by Governor Colquitt, and charged to Canyon Normal account.

All of those checks are listed on a statement on the front, which figured up the amount set out in the statement, of \$2554.25 (passing the papers to General Crane.)

General Crane: Mr. President, will you excuse me a moment? I have to answer a long distance call.

The Chair: General Crane asks the indulgence of the Court while he answers a long-distance call.

(General Crane shortly returned to his seat at Counsel's table, and the proceedings were resumed as follows:)

The Chair: Let us have order now.

Q. Governor, some question was asked here the other day about the amount of your indebtedness at the time you came to Austin, or just before you came to Austin, to that bank, and you stated what it was. What did that represent.

Senator Gibson: Mr. President, we can't hear a word.

The Chair: Louder.

Mr. Hanger: All right.

Q. What did that represent?

A. You mean the amount at the Temple State Bank?

Q. Yes, sir, when you came to Austin.

A. The larger part of it represented my campaign expenses.

Q. What was the expenditure of the first campaign?

A. About \$31,000—whatever the statement showed.

Q. And of the last one?

A. Thirty-four hundred dollars.

The Chair: Anything further from counsel for the Managers?

General Crane: Yes, sir.

Re-cross Examination

By General Crane.

Q. Governor, referring to your Amarillo account—that is, the Canyon City account, in addition to the one hundred and one dollars—\$101,607.18, did you not receive two items of interest, one for \$607.07, by draft No. 2847, on the Fort Worth National Bank, payable to you as shown by

the statement of the bank herewith submitted. (Counsel hands statement to witness.)

A. You mean in addition to the \$101,607?

Q. Yes.

A. No, sir, I did not. The \$101,607 was the amount ultimately received, and not the amount which I receipted Governor Colquitt for.

Q. Well, now we had your receipts from Governor Colquitt, or copies of them, last evening. Will you reproduce those?

A. I gave them to the stenographer.

Mr. Hanger: Get them, please, Mr. Reporter.

The Chair: Does counsel desire that the stenographer furnish those receipts?

Mr. Hanger: Yes, sir, he will get them. (Thereupon one of the official Reporters goes after the receipts in question.)

Q. In the mean time, have you found any other receipts since then?

A. Other receipts?

Q. Yes, sir.

A. No, sir.

Q. Now, you are crediting the—

A. I don't recall that there were any other receipts.

Q. You are crediting the Amarillo National Bank—that is, stating that you got from it \$45,839.48 on the 8th day of August, 1915.

A. Yes, sir.

Q. But you omitted to state that there was also credited to your account interest of \$166.40, making a total credit to Governor Ferguson's account of \$46,588.00—no, \$46,005.88.

A. Well, I don't understand it that way. I got what amount of money—the telegram shows, that is the amount.

Q. Well, you can see, that statement of the bank of August, 1907, August 19th or 29th—

Mr. Manager Bledsoe: That is 1917, isn't it?

Mr. Hanger: What is that?

General Crane: The statement of the bank.

Mr. Hanger: That does not prove itself.

The Witness: No, sir.

Mr. Hanger: Here is a telegram stating what they did have.

The Witness: Yes, what they did have.

A. Here is a telegram dated August 19th, 1917—

Q. Yes?

A. And I can see how that can be true. That was subsequently merged to make up the amount the receipt was for.

Q. Well, as I understand the receipt you have here, you account for having received from this bank the sum of \$45,839.48?

A. Yes, sir.

Q. But this interest added, charges you with receiving \$46,588—no, 46,005.88.

A. Well, that is correct.

Q. Does your statement of receipt show that?

A. I don't know whether—it don't show that, no; but subsequently that receipt went to make up the \$101,607. You are confusing the \$101,607 as though Governor Colquitt turned that over to me at the time he made delivery—

Q. No?

A. —which he did not do—

Q. No?

A. —and I collected interest on that afterwards, which ultimately went to make up the \$101,607 and whatever the odd cents is.

Q. I don't care anything about that item one way or the other, Governor, is this a copy of the contract that you made with Mr. Stevens of Liberty County, in reference to that fee in the Dayton Lumber Company case. (Counsel hands paper to witness).

A. I don't recall this contract, but I may have executed it; I don't remember.

Q. It may be the contract?

A. It may be the contract, I don't remember about it.

General Crane: You do not deny that this is the contract?

A. I do not deny—I remember something about that, but I just forgot how that was; it was five years ago.

General Crane: Well, we offer that.

Mr. Hanger: Well, we don't think that proves it.

Q. That contract is for \$3,900 fee certain and \$500 contingent, isn't it?

Mr. Hanger: Well, we object to that unless the Governor remembers it.

The Witness: I don't recall that contract.

Q. You don't recall that?

A. No, sir, I may or may not have executed it.

General Crane: Well, that will do; stand aside.

Mr. Hanger: Just a moment, just a moment.

General Crane: We will offer this copy. If counsel desire to object to it—

Mr. Hanger: Yes, sir, we object.

The Chair: Is the contract objected to?

Mr. Hanger: Yes, sir, we object. The Governor says he does not remember it; it may or may not have been executed.

The Chair: The objection is sustained.

Q. You have the original, I presume?

A. No, sir, I don't remember whether I have the original, I may have.

Q. Have you looked among your papers for it?

A. No, sir, I have not.

Q. Will you do that during the day?

A. Yes, sir.

General Crane: That is all.

Re-Direct Examination
By Mr. Hanger.

Q. Governor, here on this—about this interest charge—here on this receipt, or the copy of the receipt, do you find the \$607.07 added onto the other amounts making and going to make up the \$101,607.18?

A. Yes, sir, I do.

Mr. Hanger: The report of the House Investigating Committee is considered all in.

Mr. Henry: The March Investigating Committee.

Mr. Hanger: Yes, the March. That is all.

The Chair: Stand aside. Have your next witness called.

(The report of the Investigating Committee of the House of Representatives, above introduced into the record, is as follows:

Committee Room,

Austin, Texas, March 15, 1917.

Hon. F. O. Fuller, Speaker of the House of Representatives.

Sir: We, your committee appointed to investigate the charges filed in the House of Representatives on March 3, 1917, by Hon. H. P. Davis, Representative in said Legisla-

ture, against Governor James E. Ferguson, beg leave to report as follows:

The resolution as amended and adopted by the House on March 6, 1917, provides that "the committee shall at the conclusion of the taking of testimony make a report of its findings to the House, and the House shall thereupon take such action upon the same as it shall deem proper and just in the premises."

The committee will take up the charges seriatim, and here now make their findings as follows:

First. This charge, in substance, is that James E. Ferguson, Governor of the State of Texas, during the years 1915 and 1916, misapplied and misappropriated the public funds of the State of Texas, in violation of the Constitution of said State, and in conflict with the plain decision of the courts of this State. The committee find that the said James E. Ferguson did misapply and misappropriate public funds of the State of Texas, in violation of the Constitution of said State, during the time herein charged, in that he did use certain public funds in the purchase of groceries, butter and eggs, meats, chickens, vegetables, feed stuffs and automobile supplies. The appropriation made by the Thirty-fourth Legislature for the years ending August 31, 1916, and August 31, 1917, provided for "fuel, lights, water, ice and incidentals, \$2,000 for each year." The committee make no criticism of the fuel, lights, water and ice, although many of the committee doubt the constitutionality of these items, and the evidence before the committee shows the committee beyond a question that these items have been paid for, for many years past, and no serious question has ever arisen concerning same, and the attorney for proponent raised no objection concerning same, and no court has ever passed upon these particular items in any appropriation bill. Inasmuch, however, as the District Court, Court of Civil Appeals, and the Supreme Court of this State (although the latter has not yet acted upon a motion for rehearing) did in the case of Terrell vs. Middleton reported in the 187 Southwestern, decide that groceries could not be paid for out of such appropriation, and the committee think it not de-

batable that groceries could not be included in the term "incidentals," said appropriation for "fuel, light, water, ice and incidentals" was more than consumed by Governor Ferguson, a very large portion of which was for groceries and the other items above mentioned, and in addition thereto deficiency warrants have been issued for an amount considerably in excess of the appropriation.

Second. Answering the allegations of the second charge in the resolution, the committee find that that there was no misapplication or misuse of any of the appropriation made by the Thirty-fourth Legislature for the Governor's Mansion, including repairs and improvements to Mansion and grounds and necessary labor and employes to care for same. Neither does the committee find that there was any misapplication or misuse of any of said appropriation for fuel, lights, water and ice, but about this the committee has the same doubts as to the constitutionality of the same as expressed in paragraph 1 above; but the committee does find that the expenditures made for so-called "incidentals" for the year ending August 31, 1916, including groceries, meats, vegetables, butter and eggs, chickens, feed stuffs and automobile supplies was not warranted by law.

Third. Answering the charge contained in the third paragraph of the resolution, in which the charge is made that the said Governor James E. Ferguson did misapply and misuse a large part of said appropriations, and in addition thereto that he has approved for payment by State accounts for merchandise and many articles for which he owes and is personally liable, and that he has approved deficiency certificates, the committee find that the said Ferguson has not only misapplied and misused a part of said appropriations for the purchase of groceries and like supplies, but that he has in addition approved deficiency accounts in excess thereof to cover groceries and similar items which are not properly chargeable to the State, and were for his personal and private use.

Fourth. Answering the fourth charge in said resolution, wherein it is charged in substance that Governor James E. Ferguson did, in vio-

lation of the Constitution and laws of this State, misapply and misuse a large part of an appropriation made by the Thirty-fourth Legislature, and reading as follows: "Payment of rewards and other expenses necessary for the enforcement of the laws, lithographing, telegraphing and for other purposes, \$7500," the committee find that the said Ferguson did not, with any fraudulent intent or bad faith, misapply or misuse any part of this appropriation. The evidence shows that the only items expended out of said appropriation about which any issue was made before the committee was an expenditure of \$251 to pay the traveling expenses of C. C. McDonald to Washington, in an effort to enforce the quarantine laws, as well as to reduce a claim that the national government had against the State of Texas for military supplies which had been stolen from the Texas National Guard, and which claim was properly chargeable against this State. The committee find that this was a legitimate expenditure. The committee also find that the traveling expenses of Governor Ferguson to Washington and New York, amounting to about \$260 and charged to his "traveling expense account," for which an appropriation had been made, was also entirely proper. The only other item paid out of this appropriation was for the services of Mr. W. N. Craddock, who for several months represented the Governor in visiting State institutions and ascertaining the financial needs thereof, as well as attending sessions of the appropriation committee to assist in determining the needs of the various institutions. As it turned out, this proved to be a beneficial expenditure of public money, but the committee is of the opinion that while the employment was in the utmost good faith, and valuable service was rendered, yet that this was a dangerous precedent, and that the Constitution and laws, as well as the intent of the Legislature, was not to use money appropriated for the "enforcement of the law" for such purposes.

Fifth. Answering the fifth charge of said resolution, the committee refers to its answers to the first, second and third paragraphs above, and does find that said James E. Ferguson did, in violation of the Constitu-

tion and laws of this State, approve accounts for articles purchased for his personal use and for the use of his family and household, such as groceries, vegetables, butter and eggs meats, chickens, feedstuffs and automobile supplies; and the committee further find that such articles have been made the basis for deficiency warrants issued by the Comptroller of this State.

Sixth. Answering the sixth charge set out in the resolution, relative to the said Ferguson having violated the banking laws of this State, the committee find that the said Ferguson has since his tenure of office, knowingly, become indebted to the Temple State Bank in a sum in excess of the amount allowed by statute. The committee find that the said James E. Ferguson, since his inauguration as Governor in January, 1915, has been neither an officer nor a director of said bank. The committee does, however, find that as Governor of this State he is under oath to see to it that the laws are faithfully executed, and that he did, knowingly, permit and encourage the officers of said bank to violate the statutes of this State which provide in substance that no person shall be permitted to borrow more than thirty per cent of the capital stock of any bank, the capital stock of said Temple State Bank being at that time \$125,000 and the surplus about \$35,000, and his personal loans aggregating about \$80,000.

Answering further the sixth charge of said resolution, the committee make no findings as to whether his indebtedness was unknown to the people of this State when they elected him, and that they were misled and deceived by him in that regard, because no evidence was introduced upon this question.

Seventh. Answering the seventh charge of said resolution, the committee find that the said Ferguson is not now and never has been personally indebted to the Temple State Bank in the sum of \$170,000. It does find that up until about a month ago he was for his personal account and for the Bell-Bosque Stock Farm, of which he and his wife were the principal owners, and for certain accommodation paper for which he was personally liable, and which he owed said bank, indebted approximately

\$170,000; that said indebtedness had all accumulated since he became Governor and since he ceased to be an officer or director of said bank except about \$12,000 which he personally owed said bank at the time he became Governor; and \$30,000 which the Bell-Bosque ranch owed; that said indebtedness has accumulated since that time, and while the committee find that it may have not been secured by any liens of record, yet it does find that the assets of said Ferguson were more than amply sufficient to fully protect said indebtedness. The committee does further find that beginning with last April the officers and directors of said bank did, by correspondence as well as resolutions (entered upon the minutes of said bank), endeavor to reduce the indebtedness of said Ferguson. The committee further find that one Hughes, mentioned in the resolution, did not loan the said Ferguson, about December 5, 1916, an additional sum of between \$30,000 and \$50,000, nor did the said Ferguson and the said Hughes enter into any conspiracy, as charged, to violate the banking laws of this State, and neither was guilty of a wilful or felonious misapplication of the funds of said bank, in connection with any notes taken at that time, the findings of the committee being that the said Ferguson was asked by the said Hughes, in writing, to execute two notes aggregating the sum of \$50,000 with which to take up the overdraft of said Ferguson in the bank at that time. The committee further find in connection with this transaction that the said Ferguson did not procure any loan or any sum of money whatever at that time, but only executed notes for his overdrafts. The committee does not find that all of the loans made by said bank to Governor Ferguson in excess of thirty per cent of the capital and surplus of said bank were made in violation of the letter of the banking laws of this State, and as Governor of this State, charged with the enforcement of all laws, he did violate the letter of the law and acquiesced in and encouraged its violation by the officers of said bank. In this connection, however, the committee say that it does not believe there were any willful or criminal intent upon the part of said James E. Ferguson

to defraud said bank or its depositors or to cause them any loss, and further find it to be that all of the personal indebtedness of said Ferguson due said bank has since been paid, and that he is no longer responsible to said bank for any indebtedness except one note, \$37,500, owing by the Bell-Bosque Stock Farm and which said loan is not in excess of the amount permitted by law and is amply secured.

Answering further and undertaking to answer all the allegations in this paragraph of the resolution, as well as all others, the committee make no finding as to whether these facts were unknown or concealed from the public at the time James E. Ferguson was elected Governor in 1914 and 1916, because no evidence was introduced upon that question.

Eighth. Answering the eighth charge in said resolution, the committee find that the said James E. Ferguson did execute certain mortgages to the Temple State Bank to secure a part of his indebtedness thereto, and the committee further find that said Ferguson did not request the officers of said bank to withhold same from record in order that he might be relieved from criticism of his political opponents. The committee find that the said Ferguson subsequently executed another mortgage to the American National Bank of Austin, and nothing was said or asked about any existing mortgages. The committee find that the Temple State Bank began to complain of his indebtedness and said Temple State Bank had ample time and opportunity to have recorded its mortgage, if it had so desired. The committee further find that said last named mortgages were on additional property amounting to more than 900 acres of valuable land not included in the mortgage to said Temple State Bank. In this connection, the committee repeats what it has heretofore said, that all of the personal indebtedness due said Temple State Bank by the said James E. Ferguson has been fully paid.

Ninth. Answering the ninth charge contained in said resolution, relative to the Temple State Bank undertaking to change from the bonding plan to secure its depositors to the bank guaranty fund plan, the committee find that said bank

during the last year was operating under the bonding plan, and furthermore, that it has for this year executed a new bond under the same plan. There was hearsay testimony that such a plan for change was once contemplated, but there was no evidence as to whether the idea has been abandoned or not, and no further evidence was introduced before the committee concerning the matter.

Tenth. Answering the tenth charge contained in said resolution, relative to the Commissioner of Insurance and Banking, Hon. Charles O. Austin, being cognizant of the violation of the banking laws by the Temple State Bank in extending an excessive line of credit to Governor James E. Ferguson, the committee find that beginning with April of 1916 the examiners of said department, in the most commendable performance of their duty, furnished said department official reports of the violation of the banking laws of this State by said bank in extending an over-line of credit to said Ferguson; that other reports subsequent to that time and similar in nature were also filed with said department; that the Commissioner of said department up until about September 1, 1916, is dead, and that about September 1, 1916, the Hon. C. O. Austin was appointed to said office, and the committee find that he did not actually know the condition of said loans by said bank until about January 4, 1917, but we believe in the exercise of reasonable diligence he should have ascertained said facts prior to said time.

The committee further find, as heretofore stated, that said excessive loans were in violation of the laws of this State, but the committee further find that there was no collusion or conspiracy between the said Austin and the said Ferguson to violate the banking laws, and that, in fact, said Ferguson did not up until about January 1, 1917, have any conference with said Commissioner concerning his said loans, and then only in an effort to readjust and secure the same.

In conclusion, the committee begs leave to report to the House that the most serious charges contained in the resolution are those concerning the purchase of groceries and like articles, and bank transactions. We

think the purchase of groceries for the Governor and his family is subject to just criticism, because in contravention of the Constitution and in violation of the decisions of the courts, but it is only fair to state in this connection that past Legislatures, including the Thirty-fourth, have been making gradual encroachments upon the Constitution in an effort to do indirectly what it could not do directly, and supplement the meager salary now paid the Governor by furnishing such things at the Mansion as fuel, lights, water and ice. We think these facts, together with his sworn statement that he will promptly repay to the State any amount which the Supreme Court shall finally decide is not properly chargeable to the State, should be considered in connection with the good faith of the Governor, and we are, therefore, of the opinion that said transactions are not sufficient to justify the filing of impeachment proceedings.

Relative to the transactions between the Governor and the Temple State Bank, we beg to say that in our judgment they are deserving of the severest criticism and condemnation. As Governor of the State he was and is charged with the enforcement of all laws. The large sum of money borrowed by him from said bank, and far in excess of its capital and surplus, was a plain violation at least of the letter of the law. All laws, regardless of what any man may think about them, should be fairly and impartially enforced. He, knowingly, encouraged the officers of the bank to violate the banking law, and we neither excuse or condone the same. In view, however, of his previous connection with said bank, and of the history of the transactions involved, the payment of his entire personal indebtedness, and after undertaking to pass impartially upon all facts and circumstances before us, our conclusion is that said conduct was unjustified and wholly unwarranted, but does not merit the severe pains and penalties of impeachment.

In connection herewith we submit a stenographic report of the evidence taken in accordance with the terms of the resolution under which the investigation was held. A full statement of all expenses incurred are on

file with the Committee on Contingent expenses.

Respectfully submitted, Blédsoe, Miller of Dallas, Thomason of El Paso, Pope, Bryan, Carlock, Fly, Bryant, McMillin.

Senator Bee: Mr. President, I am informed by counsel that they desire a few minutes for consultation, and I move that we stand at ease for a few minutes, subject to the call of the Chair.

The Chair: Senator Bee moves that the Court stand at ease for a few minutes, subject to the call of the Chair, while counsel are given an opportunity for consultation. Is there objection? There is none; and the Court will stand at ease subject to the call of the Chair.

(Thereupon, the Court stood at ease from 10:40 a. m. until 11:10 a. m., when the Court reconvened.)

The Chair: The Court will come to order. Mr. Sergeant-at-Arms, all those not entitled to the privileges of the floor will please retire. Mr. Hanger, you might make a statement to the Court. I would like for the Court to hear this statement by counsel for the Respondent.

Mr. Hanger: Mr. President, we have one matter of policy or procedure that we want to discuss just a little further. Our position has been explained to counsel on the other side, and we desire to ask a recess until 2 o'clock, and will make a final announcement at that time. Since the statement is made to General Crane, he will not object to that procedure.

The Chair: What is the pleasure of the Court?

Senator Bailey: Mr. President?

The Chair: The Senator from DeWitt.

Senator Bailey: I move that the Court recess until 2 o'clock.

The Chair: Senator Bailey moves that the Court recess until 2 o'clock. Those favoring the motion will signify it by saying "Aye," those opposed "No." The ayes have it. The Court will recess until 2 o'clock this afternoon.

Thereupon, at 11:15 o'clock a. m. the Court recessed until 2 o'clock p. m.

In the Senate.

President Pro Tem. Dean in the Chair at 11:12 a. m.

Senate Bill No. 27.

The Chair laid before the Senate on second reading

S. B. No. 27, A bill to be entitled "An Act to prohibit the bringing of suits in this State to collocet delinquent taxes until on and after the 31st day of January, A. D. 1919, and to continue all such suits now pending until such time, and declaring an emergency."

The committee report that the bill be printed in the Journal only was adopted.

The bill was read second time and passed to engrossment.

On motion of Senator Bailey, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 27 put on its third reading and final passage by the following vote:

Yeas—24

Alderdice.	Johnson of Hall.
Bailey.	Lattimore.
Bee.	McCollum.
Buchanan of Scurry.	McNealus.
Collins.	Page.
Dayton.	Parr.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Sulter.
Hopkins.	Westbrook.
Hudspeth.	Woodward.

Present—Not Voting.

Buchanan of Bell.

Absent.

Caldwell.	Harley.
Clark.	Henderson.
Hall.	Johnston of Harris.

The bill was laid before the Senate, read third time and, on motion of Senator Bailey, was passed by the following vote:

Yeas—23

Alderdice.	Hudspeth.
Bailey.	Johnson of Hall.
Bee.	McCollum.
Buchanan of Scurry.	McNealus.
Caldwell.	Parr.
Collins.	Robbins.
Dayton.	Smith.
Decherd.	Strickland.
Floyd.	Sulter.
Gibson.	Westbrook.
Henderson.	Woodward.
Hopkins.	

Nays—2

Dean. Lattimore.

Present—Not Voting.

Buchanan of Bell. Page.

Absent.

Clark.	Harley.
Hall.	Johnston of Harris.

Senator Bailey moved to reconsider the vote by which the bill was passed and table the motion to reconsider. The motion to table prevailed.

Message from the House.

Hall of the House of Representatives, Austin, Texas, Sept. 21, 1917.

Hon. W. L. Dean, President Pro Tem. of the Senate:

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

H. B. No. 31, A bill to be entitled "An Act for the protection of wild turkey, squirrels and furbearing animals in the counties of Angellna, Cherokee, Hardin, Liberty, Nacogdoches and Tyler, providing a closed season in said counties, limiting the number of wild turkeys and squirrels to be killed by any one person, providing penalties for the violation of this act, and declaring an emergency," with engrossed rider.

Respectfully,

BOB BARKER,

Chief Clerk House of Representatives.

Bill Read and Referred.

The Chair, President Pro Tem. Dean, had referred after its caption had been read, the following House bill:

H. B. No. 31, referred to the Committee on Criminal Jurisprudence.

Recess.

At 11:35 o'clock the Senate, on motion of Senator Gibson, recessed until 2 o'clock today.

After Recess.

(Afternoon Session.)

The Senate was called to order by President Pro Tem. Dean, at 2 o'clock p. m.

In the Court.

Friday, September 21, 1917.

Afternoon Session.

(Pursuant to the recess adjournment, the Senate sitting as a Court of Impeachment, reconvened at 2:00 o'clock p. m.)

The Chair: The Senate will come to order. The time having arrived for the convening of the Court of Impeachment, the Sergeant-at-Arms will see that the Chamber is cleared of all except those entitled to its privileges and that none remain within the bar except those entitled to its privileges, and let us have order. The Court will come to order.

Mr. Hanger: The Respondent rests.

General Crane: The Board of Managers closes, Mr. President.

Senator Bee: Let us have order, Mr. President.

The Chair: Let us have order. Both sides have closed their evidence now.

Senator Bee: I didn't hear the announcement.

The Chair: The Respondent rests and the Managers close.

Senator Bee: Now, Mr. President, I want to ask Counsel for the Managers and Counsel for the Respondent about their argument. So far as I am concerned I am opposed to putting any limitation upon the time that these gentlemen shall argue, unless they themselves agree upon it.

The Chair: Let's see first if they can reach an agreement.

Senator Bee: Mr. President, there is nothing more unfortunate for counsel than to have to speak against the clock.

Senator Henderson: Isn't there something in the rules about it, Mr. President?

The Chair: I am just looking to see.

Senator Henderson: My recollection is that the rules provide for three hours to the side.

Senator Westbrook: Mr. President.

The Chair: The Senator from Hunt.

Senator Westbrook: I was just going to suggest that the rules limit the time as to the argument to three hours to each side.

The Chair: That is on demurrers, isn't it? That's my recollection. The argument on demurrers is limited to three hours to the side. Some think the demurrers should have been argued before the evidence was offered.

Senator Westbrook: I believe the Chair is correct. It is only in reference to the demurrers, three hours to the side.

Senator Clark: Mr. President, I move that the counsel on each side have all the time that they see proper.

The Chair: Will the Senator from Fayette yield a minute to see if they can get together on the time?

Senator Clark: All right.

The Chair: The Chair suggested to counsel before noon to see if they could agree on the time.

Senator Hopkins: Mr. President.

The Chair: Senator Hopkins.

Senator Hopkins: Have counsel expressed a desire to argue the case?

General Crane: Counsel for the proponents have not. We are willing to submit the case without argument, but we recognize that the Respondent is entitled to make an argument if he wishes, and of course if he does we shall argue it.

Senator Hopkins: I felt that way about it, but still if neither side desires to argue it I don't see any necessity of arguing.

Senator Page: Mr. President, I think those are matters that counsel ought to agree on between themselves, and if there is any question about it, let them retire. I don't think these matters ought to be discussed in open session.

General Crane: I would not have discussed it except in answer to the question.

Senator Page: I understand that, General, but I don't think it ought to be argued here—in fact, I know it ought not.

The Chair: The Court will indulge counsel for a little while.

Mr. Hanger: I don't see a word in the rules about it except on demurrers.

The Chair: The Chair announces to the members of the Court that

counsel have agreed on four hours to the side, subject to the approval of the court. Is there any objection? All right. Gentlemen, you may arrange the time as you see proper—I mean, allot the time.

Senator Hopkins: Mr. President, is that four hours to the side?

The Chair: Four hours to the side, eight hours altogether.

Senator Henderson: How about a night session?

The Chair: That is up to the court.

Senator Bailey: Mr. President?

The Chair: The Senator from DeWitt.

Senator Bailey: I simply make it as a suggestion—I don't know whether counsel prefer it or not, or how the Senate feels about it, but it might be agreeable to counsel to have a night session.

Mr. Hanger: No, we can't do that.

Senator Page: Mr. President, the reporters say they can't hear anything.

The Chair: Let's have order. We don't want any talking in this Chamber.

Senator Bailey: Mr. President.

The Chair: Senator Bailey.

Senator Bee: Will the Senator from DeWitt yield?

Senator Bailey: Yes, sir.

Senator Bee: Let me ask the Senator from DeWitt if he thinks under the circumstances it is necessary for these gentlemen, working as they have been doing, to come down and argue at night, when we have got until 5 o'clock this afternoon and tomorrow morning, and by 2 o'clock we can take a vote?

Senator Bailey: I am not going to insist on it, but if it suits counsel—

Senator Bee: If counsel would prefer it, it's all right with me.

Mr. Hanger: No, sir, we would rather not have a night session.

The Chair: The Chair will state that there was a suggestion by counsel that we meet earlier than 10 o'clock in the morning, so the case can be finished tomorrow—9 o'clock or earlier. It can be concluded readily by beginning early in the morning without a night session.

Senator Bee: We might hold until 6 o'clock this evening.

Senator Henderson: No, five will be long enough.

Senator Page: Mr. President, I

make the suggestion that we recess this evening at 5 o'clock and open at 9 o'clock tomorrow morning and take a vote tomorrow afternoon. I am not making a motion, but it might be understood that we have until 5 o'clock this afternoon.

The Chair: What do you say, Senator Page, to running three hours this afternoon?

Senator Page: All right.

The Chair: Then, if there is no objection, we will do that. The Chair would like to state to those in the galleries, while counsel arrange as to who shall open the argument, that it is not expected that there will be any applause following statements by any of the speakers. I think that the galleries and those in the Chamber will understand that in any event, but in order that you may bear it in mind we impress on you now that any applause will be out of order.

Mr. Hanger: Mr. President?

The Chair: Mr. Hanger.

Mr. Hanger: We understand it is a rule that cannot be enforced, but we desire to request of the gentlemen on the opposing side that they divide the time as near as possible in order that the opening may be a fair one, and not reserve all the time for the closing argument.

General Crane: Mr. President, there will be no danger of our reserving all the time for the close.

Mr. Hanger: I meant practically all of it—that there be a fair opening.

General Crane: We will make a fair opening, and we believe that that is all that is required; but when they have four hours in between, necessarily whoever replies to the four hours argument, one of us; will be obliged to and ought to have more time than the other.

Senator Bee: Mr. President.

The Chair: Senator Bee.

Senator Bee: I have been asked by some of my associates to ask counsel if the four hours include the arguments on the demurrers?

General Crane: Yes, sir.

Mr. Hanger: Yes, sir, the demurrers are going to be argued with the case and not separately.

The Chair: All right, gentlemen. When you get ready to begin, we are ready.

Mr. Harris: Mr. President.

The Chair: Mr. Harris.

Mr. Harris: And members of the Court: We are concluding a memorable trial in the history of Texas. Your Governor is on trial before the High Court of Impeachment. I want to say to you at the beginning, and I speak truly, I have not in my heart an unkind feeling toward him. We do not appear before you stating that there is nothing in the Governor's administration of his office that is worthy, we are not required to make that statement, and if we were we would not make it. We do not stand before you saying there is nothing in his character that is commendable. We are not required to make that statement, and if we were we would not make it. We simply say to you that the Legislature of this State, acting in accordance with the authority given it, has voted twenty-one articles of impeachment against your Governor, and we submit to you that those articles have been proven, and that as proven they render your Governor unfit to further conduct the affairs of that high office. The people of the State have entrusted to your Governor wonderful powers. He has control over legislation that is almost supreme. A majority of the members of the Senate and a majority of the members of the House might will a law should be enacted, and yet if your Governor wills otherwise it takes a two-thirds vote of both houses to enact that bill into a law. If a man is tried and sentenced to death, the people of the State have entrusted into the hands of their Governor the power of life or death. As I said, that is a tremendous power. If a man be convicted of crime and sentenced to the penitentiary, they have entrusted in the hands of your Governor the power of liberty or imprisonment. Your Governor appoints hundreds of executive and judicial officers. He is supreme, almost, in the conduct of this State's affairs, and I say the powers are tremendous, and with those powers his conduct should be above reproach, above suspicion, and above criticism. I demand of a man in high station a more exacting course of conduct than I do of a man in low station; his powers are greater, his duties are greater, and he must conduct those duties with a higher sense of propriety and of honor than a man

in a humbler station of life. I would exact more of your Governor than I would of a constable because his station is higher and because his powers are greater.

The people of this State have suffered much in the way of political offenses and yet they have been in the main well ruled. They have had big men as Governor, Ireland, Ross, Hogg, Culberson, and others. We will have big men again. I want to discuss this matter with you as I would with a court. If I should appear before the Supreme Court I would discuss this matter, realizing they had no friends and no enemies, and I am going to discuss this matter throughout upon the same basis. You are sitting as a Court. You are going to decide it regardless of political enmity and regardless of political friendship. I thoroughly believe today there are Senators here in this body who, on account of the personal friendship and regard for the Governor, will hate to vote against him; it will tear their very heartstrings out to do it. and yet, mark this prediction, when the hour comes they are going to do their duty fearlessly, fairly and justly, just as your Supreme Court would do it. It is not a matter of friendship, it is not a matter of enmity. The Governor is entitled to courteous treatment, he is entitled to a fair trial and he is entitled to just consideration. He is entitled to reasonable doubt, but the five million people of this State and the good name of this State, also, have rights here. One is not paramount to the other. The right of an individual, to the extent of his right, is supreme, and the rights of the people, to the extent of their rights, is supreme. It is just a question of what is right between man and man, under the evidence in this case, and I am going to discuss it on that basis. I am going to take up the charges, not in their order, and discuss them with you.

The first charge has reference to Mr. C. W. Woodman. Your Constitution provides in effect that before an appointee of the Governor shall exercise the duties of his office he must be confirmed by this Senate. It is a wise provision of the Constitution, but whether it be wise or not, it is the Constitution of this State, and, right here in passing, if you will

permit, I think the fundamental fault with your Governor is that he does not have that high regard and respect for the laws and for the Constitution that should characterize the Chief Executive, and it is illustrated as we pass from charge to charge.

Now, Woodman's name was presented and the Senate denied confirmation. The Governor appointed a successor. The successor did not qualify, and under the law his failure to qualify permitted Mr. Woodman to continue to serve. The Governor said that he was advised that it was a question of policy involved that they wanted to work out, but I say to you this Senate had a right to determine that very question themselves. They did not want Mr. Woodman to determine and shape the policy of that office. Mr. Swor did not qualify until August 18, practically the date that the Governor took the stand in the House, nor would he have qualified if it had not been for this proceeding. I want to say to you it became the solemn duty of your Governor to compel Mr. Swor to qualify, or name a successor to Mr. Swor who would qualify.

If that were the only charge against your Governor, I would say frankly it would not justify impeachment. But that is one of twenty-one. When all of the charges together are considered, the gravity of that charge becomes the greater.

Another charge involves the question of appropriations for the Mansion. Under Governor Colquitt's administration an appropriation was made for fuel, lights, ice, groceries, and incidentals. Under Governor Ferguson's administration it was made for fuel, lights, ice, and incidentals, leaving out groceries. But, concede that the Governor honestly thought that he was entitled to purchase groceries until the Supreme Court of the land had held otherwise; I will grant you that for the sake of argument, but after the Supreme Court had held otherwise, then his duty was different. Now, what promise did he make? Beginning on the 7th of March a committee of the House investigating his conduct, investigated this charge. He made them a promise, and I will attempt to show to you that the promise was not kept. Your Governor would contend that his promise was about deficiency warrants issued by him. After the two thousand dollars was ex-

hausted, he issued deficiency warrants which the Treasurer did not pay, and which he was compelled to pay. That was his solemn promise before the committee, and his solemn promise was to repay out of the appropriation anything the Supreme Court might hold to have been improper. And I am not going to make any assertions about it, I am just going to read you what occurred:

"Q. Governor, beginning first on the item of the appropriation bill" and I wish you would follow the word appropriation and appropriation bill as it occurs, "commonly designated as those of the Mansion and the grounds, you are familiar with that appropriation?" A. Yes, sir.

"Q. You are aware of the fact there is a case pending now in the Supreme Court concerning those appropriations?" A. Yes, sir.

"Q. That the court has refused a writ of error, but that the motion for rehearing has not been passed upon?" A. I am so informed.

"Q. I wish you would state to the Committee what your position is with reference to those items and the payment of those items already made?" A. By reference to the record, it will be ascertained that this suit involves items appropriated under Governor Colquitt's administration. It does not involve items appropriated and used under my administration. However, taking that as a basis, I want to say here and now in the presence of this Committee that whenever that suit is decided by the law of the land, more especially the decision of the Supreme Court, I stand ready and willing and have always stood ready and willing to pay any amount that that court may judge that I ought to refund to the State Treasury." "Any amount that the court may judge that I refund to the State Treasury." Not pay deficiency warrants, which had never been honored by the Treasury, but "any sum that the court may decide that I ought to return to the State Treasury."

"Q. Did you make that statement and do you make that statement irrespective of what the custom has been with reference to payments out of appropriation bills in this State?" A. Absolutely, I want to carry out the law just as it has been determined, or as it may be determined by the highest court in the land. I am frank to say

that I think I have a right to have that matter passed on finally by the Supreme Court of our State, and whenever it is adjudicated or decided that any part of this appropriation bill used by me was not in accordance with law, as I have always stated, I am ready and willing to refund to the Treasury any amount any hour of the day, any amount I may owe.

"Q. Are you familiar and have you investigated and found out about the expenditures in a general way in the past of items appropriated by the Legislature both in the executive office and for the Mansion and grounds? Are you familiar with it? A. Yes, sir.

"Q. Do you intend, although fuel and lights have been paid for forty years, if the Supreme Court holds that it is not properly paid for, to pay it yourself? A. Yes, sir, absolutely."

Now, a promise could not be more explicit, a promise could not be clearer to that committee investigating his conduct, and, "Yes, sir, out of the money appropriated for me, if the Supreme Court holds any part of it was improperly appropriated I will pay it back promptly to the Treasurer." Now, what occurs when the House begins the investigation of him? The Governor said, as the testimony they introduced showed, that he never intended to promise to pay back what the Legislature had appropriated for him, that what he had intended to pay back was the deficiency warrants that he had used to buy more groceries, gasoline, inner tubes, etc., then this colloquy took place:

"Still you stand before the Legislature as having used up the appropriation made as incidentals and without refunding the difference of it to the State Treasury? A. Yes, yes. While the court is against me, they are against the Legislature, too, and if this Legislature will say they want the money paid back I will pay it here,—I will put my check in Judge Fly's hands right now.

"Q. Don't you think that the Supreme Court having announced it, that the Executive ought to comply with the decree of the Supreme Court of the State without asking the Legislature's opinion about it? A. If the Legislature will say it, I never understood anybody wanted it,—if the Legislature will say they want me to give back the money.

"Q. You are not answering my question. Do you mean to say that you will not, as Governor of this State, abide the Supreme Court of the State as the law of the land unless you are forced by the Legislature? A. I won't say what I will do. I don't want to do anything against the will of the Legislature or the courts; I simply say if this Legislature wants me to give back the money that they gave to me and understood at the time that it was to be used for groceries and gasoline. I will gladly give it back, and until they do say that—

"Q. But you do not feel under any obligation to do that unless the Legislature so states? A. No, sir."

Now, you have your Governor in this position. A solemn promise is made to a committee that is trying to determine whether or not articles of impeachment should be addressed against him, "that I will pay back into the Treasury every cent unlawfully paid to me if the courts so decree," and the committee report that promise of the Governor is a reason why impeachment should not be preferred on that article, and after they had done that and the Legislature had adjourned, the Supreme Court had decided the question, your Governor said, "I never intended to pay back what had been appropriated to me, I never promised to pay back what had been appropriated to me, and if the courts are against me they are against the Legislature, too, and I will not obey the law of the court unless the Legislature says so." With all due respect to the Legislature of the State of Texas, they had nothing to do with the matter, the Supreme Court had to determine the law. At any rate, your Chief Executive ought to have kept his promise and to have obeyed that law, still he would not do it. Illustrating again, as I said, his lack of regard for the law of the land, lack of regard for the Constitution as it is written, and lack of regard follows almost every case that we have.

Now, on March 15, 1917, the Governor received on his desk a bill increasing the salaries of the district judges, the judges of the Courts of Civil Appeals and the Supreme, to increase the salary of the Supreme Court judges from five thousand dollars to six thousand dollars. Now on March 22 your Governor writes the Supreme Court a letter calling attention to the Con-

stitutional provision and placing his interpretation thereon. He signs that letter as Governor. He has not given a copy of that letter to opposing counsel. Now, your Governor had to have lawyers employed in that case, and able lawyers, at the State's expense, Mr. Pat Neff, of Waco, and Judge White of Austin. If he had wanted to know whether or not that provision of the Constitution had been called to the Supreme Court's attention he could have turned to the 'phone and in a minute have found it out. It had been called to their attention three times by his lawyers. We introduced the brief filed in the Court of Civil Appeals showing it had been called to their attention, and we introduced the application for a writ of error showing it was urged, and we introduced the motion for rehearing showing it was urged, and yet he has known that, he has on his desk a bill increasing the salaries of the Supreme Court judges, he writes them a letter about the case—they say there is no impropriety in that. I think there is. I think, now, assuming that it had been called to their attention before, he knew it, there was no need to call it again—assuming it had not been called to their attention before, don't you think if it had not been called to their attention before that the counsel for the opposition should have had the benefit of the letter in order that they might answer it? Let him take either horn of the dilemma that he wishes. If it had been called to their attention there is no excuse for writing; if it had not been called to their attention counsel for the opposition should have had the benefit of the letter. I will read you the letter; and it comes just seven days later, seven days after the bill increasing the salaries was put on his desk:

"March 22, 1917.

"To the Supreme Court of Texas,
"Capitol.

"Gentlemen:

"Referring to the case of Middleton v. Terrell, now before your Court, and generally known as the Chicken Salad case, I am taking the liberty to call to your attention section 48 of article 3, which appears to give the Legislature the right to levy taxes to raise revenue for the payment of all officers, agents, and employes of the State government, and

all incidental expenses connected therewith.

"In all probability you have considered the provisions of the Constitution, but as the matter is of such public importance, I am taking the liberty to again call your attention to the provision in order that there may be no possibility of the provision being overlooked.

"Yours truly,

"JAS. E. FERGUSON, Governor."

Now on March 28, the Court overruled the motion for a rehearing, notwithstanding his letter, and what happened? On April 5 there is a veto filed by the Governor of that bill. I want to read you one paragraph out of that veto to show you what was running through his mind all the time.

"The higher courts of this State have given their approval to the proposition that the Governor of this State must be restricted to a salary of \$4000.00 and no more; and it does occur to me that if the dignity of the Governor's office is thus to be restricted by the decree of the higher courts, to \$4000.00 a year, they, themselves, ought to be satisfied with their present salaries, which are as much and more than the Governor's salary."

You get the meat in the cocoanut there. Here is a bill increasing their salary, he writes them a letter about what they are going to do about it. When they overruled it, he says, "Now, you are content with me having four thousand dollars, you ought to be content with what you get and no more."

I want to say this about our courts, they have been, without exception, as I view it, above reproach. They have never been influenced by outside considerations, and I hope they never will. The Beaumont court, he appointed three members of that court, and he wrote them a letter arguing the facts of the case, and they overruled him, though, every one of them, although they were under political obligations to him, and I will come to that case. Governor Ferguson appointed Judge Brooks, Judge Conley and Judge Middlebrook on the Beaumont court and in due season a case involving seventeen hundred acres of land in which he was interested came before the court. Notwithstanding

their personal obligations to the Governor, notwithstanding their personal feelings toward him, they did their duty as they conceived their duty, and then, before the matter was finally disposed of the Governor writes them a letter and to show it is an argument I want to read just one paragraph out of this letter, I will be glad if every Senator here would take his journal and read the entire letter. He writes this in response to a letter from Judge Brooks asking him to endorse him. The letter from Judge Brooks is as follows: "As my appointee I am pleased to know that you have given satisfaction to the bench, bar and the people of your district." Governor Ferguson sent the following endorsement—you know if the Governor didn't think so, he could have declined to have written the letter, but instead of that he writes a two page argument in the case. I will read you one paragraph: "My attention has been called to the decision of your court rendered in the case of Maddox vs. Dayton Lumber Company, which had been previously decided against the defendants in the lower court. If this opinion is permitted to stand, then there is no title in Texas to any land located in a survey that contains an excess but what can be taken away from the people who own it, and they are subject at any time to have their land filed on by unscrupulous land surveyors, in utter defiance of the laws of Texas, the Supreme Court decisions, which have held that the acts of such surveyors are utterly void and all proceedings thereunder convey no title. I call your attention that your court, although this proposition has been raised repeatedly in the different hearings of this case, has failed to meet this question raised in the record."

That is just part of the argument. Could you imagine a more appealing argument, if it is true, than the one he makes in that letter. I am speaking to men who know that our Statute refused to honor a motion for a rehearing filed fifteen days after a motion is heard. Seven days after this letter was written another motion was written by his counsel—a singular coincidence at least,—and that motion for rehearing remained there from May to November when it was granted in part and overruled

in part. I say to you the Governor ought not to have written that letter.

Let me call your attention to something I was about to forget: He did not content himself with writing to Judge Brooks, for his concluding paragraph in his letter, he said: "I am sending a copy of this letter to each member of the court in order that all parties may be advised of the true facts." Responding to Judge Brooks' letter and yet sending a copy to every member of the court,—responding to his letter and yet arguing the case; responding to his letter and yet his counsel filed a motion for rehearing within seven days, an unusual proceeding, and he had not given opposing counsel a copy of this letter. And there are some very interesting circumstances in connection with that proceeding. The Dayton Lumber Company, his partner Mr. Mansfield, deposits in his bank a trust fund, but admits it was a trust fund, sixteen thousand dollars, awaiting the decision of the case. After the case was decided, and then the motion for rehearing was overruled, every cent of that money was gone out of the account by your Governor, and when they came before him and asked him for a statement of the account, he says: "The bank won't give it to you, Mr. Kittrell." He said "Why?" Yet, we brought here a letter written by the Governor on June 1st asking for a copy of that very statement that he would not accord to the other people. Your Chief Executive, as Governor, ought not to use his influence, ought not to use his prestige, ought not to use his position in any way to try to influence the courts even if he does not succeed.

Again, and illustrating, as I have stated, the fundamental of your Governor, the lack of respect for the law, the lack of regard for its mandates, you have a law on your books that a bank can loan to one man no more than thirty per cent of its capital unless it has a surplus which amounts to fifty per cent of its capital, in which event it can loan thirty per cent of the capital and surplus. The Temple State Bank had a capital stock of one hundred and twenty-five thousand dollars. Its surplus did not amount

to one-half of its capital stock, and in consequence the extent to which they had a right to loan one man was \$37,500.00. That is the law of the land, and there is a criminal penalty for its violation. Yet your Governor insisted the trustees of that bank lend him a sum of money in excess of a hundred and fifty thousand dollars, a sum of money equal to the capital and surplus of the bank. I care not whether the law be wise or not, it is sufficient to say that it is the law, and it ought to have been obeyed, but I do say the law is wise, and for two reasons: first, it is the law not to allow one man to monopolize the resources of a bank; another and definite reason was, the desire of the law-makers that no bank should jeopardize the interests of its stockholders and depositors by loaning one man an excessive amount. Suppose your Governor had failed, suppose his friends had not let him have the currency and he could not meet his obligations; he might have destroyed every dollar that the stockholders had deposited in that bank.

But I am getting a little ahead of my story. The Banking Commissioner learned about it and there began to be some complaints, so they decided on this plan, that the Governor—the four notes would be executed, one by the Governor for \$37,500, the limit of the bank's ability to loan; one by the Bell-Bosque Stock Farm; one by A. F. Ferguson; one by J. H. Davis, Jr. Now, the Governor gave his written guarantee for all four notes, they were all his obligations; it was just a concealment of the true transaction, there can be no doubt about that. The resolution offered here in the House charged him with an overline, and he appeared before the House, when it was his duty to speak truthfully and to speak unequivocally, and he said to these people, "I don't owe the Temple State Bank a nickle,"—he admits it, we have proved it by the newspaper men—and yet, what are the facts? He testified, and we introduced his testimony, that the notes of Ferguson and Davis were morally his, and that he was legally liable for them when he gave his written guarantee, and gave his guarantee on January 22d,

before March 3d, he had a \$11,200 note there on which there was a balance due of \$8000, not saying anything about the Bell-Bosque note; and yet, with the knowledge that the Davis note was his obligation, and with the knowledge that the note of A. F. Ferguson was his obligation—and I say he ought to have had the knowledge that he owed \$8,000 on that \$11,200 note, and yet, he stood before that House and said to them, "I don't owe that bank a nickle," and he owed them over \$75,000!

Then the investigation committee comes on, and on March 7th, the day it meets—he had said that he did not owe them anything, so the Davis and Ferguson notes were transferred to the Houston bank—on March 7th—and under what circumstances? The bank guaranteed them, and the bank kept a balance there in excess of \$75,000. Then he told that committee that he did not owe those notes, and they had been paid by the Houston bank. Your Governor, in all matters ought to deal candidly and frankly, and it is for you to determine, under the charges made—and I am discussing the charges—these are based upon charges made, has not always dealt frankly and candidly.

Then I will take up a line of deposits that he makes and causes to be made in the Temple State Bank, but before doing that, I want to read you something from the House investigation that was introduced in evidence. The Governor said that in depositing that money he did not have in consideration the interest that it would earn him; he was a practical banker, of ten years' experience, and he ought to have known the value of deposits. Mr. Widen, of the American National Bank, said that a deposit, when it was taken out every thirty days was valuable, and yet your Governor has the deposits extend to ninety days, and would lead you to believe that they had but little value! But let us see. I do not believe that interest was the controlling consideration with him. I believe, and I am going to deal frankly with you about it, that the controlling consideration with him was to secure a line of credit that he could not otherwise secure from the directors of that bank, and I am going to read what

he said, and to be fair with you, make it just slightly—a little lengthy “As best I could”—in speaking of Mr. Poe coming to the bank—he came to Temple in pursuance of that agreement and entered upon the duties as president of the bank. As best I could, I informed him of the general condition and plans and policies and customs that had been followed in the operation of the bank. Among other things, I especially called his attention to the fact that I had considerable business outside of the Temple State Bank, and that my Temple State Bank stock was only a very small part of my business operations and holdings, and that it became necessary for me to borrow money in large amounts from time to time, and that it had been the custom, and would continue to be the custom, in the bank, that I would link my fortunes, as I had in the past, with the Temple State Bank. That in consideration of my becoming surety upon the guaranty bond under the State Banking Law, for the security of deposits in the bank, and in consideration of my agreeing to go upon all bonds that the Temple State Bank might be required to execute from time to time, and in consideration of my tendering to the Temple State Bank the business of the Heidenheimer State Bank and the Pendleton State Bank, institutions in which I owned the large and dominating portion of the stock, continued to do their business with the Temple State Bank, and in consideration of my giving whatever influence I might have in a financial way towards securing and holding business for the Temple State Bank, that the Temple State Bank was to take care of my line from time to time; that it was a mutual arrangement between the Temple State Bank and myself.”

“And in consideration of my giving whatever influence I might have in a financial way towards securing and holding business for the Temple State Bank, that the Temple State Bank was to take care of my line from time to time!”

Beginning at \$12,000, the Temple State Bank did take care of his line, up to \$155,000, and he performed his contract, because he used all the influence he had to bring them business, and a part of that influence extended to the State business, if you

please. The Canyon City fund he found bearing interest from four to six per cent, he found that his predecessor had required a bond for the safe return of every penny of it. What did he do? He wasn't in the Governor's office a day until he began to deposit in the Temple State Bank, without any interest and without security; and in the American National Bank; and he deposited in the Temple State Bank a total of \$51,000, a part of which, I believe, was the King's Highway money. Now, I say to you, gentlemen, that it was his duty to deposit that money in the Treasury. He deposited some of it in the American National Bank, and they also took charge of—helped him out on his line of credit, beginning with \$7500, they loaned him up as high as \$37,500. And then he went to your Secretary of State, and I want to read you what he says about that, because I do not want to misquote anything (reading):

“A. While the charge does not so state, I take it for granted from the questions heretofore asked, that reference is made to the account kept by the Secretary of State in the Temple State Bank. Previous to May of each year, I think it was May 1st, or probably it might be some other day in May, but as I recollect it, May 1st, the franchise taxes due and owing by the respective corporations in the State, are payable, and are into the hands of the Secretary of State, and he issues his official receipt therefor after he has collected it. I think it was—anyhow, at the time, at the date wherein the item of \$250,000 is discussed here, and perhaps previous, probably a month or two previous to that, I had said to the Secretary of State,—

Now, listen to the Governor's language,—

“I understand you have large sums of money coming into your possession for the payment of franchise taxes. As the law requires you to settle at the end of each quarter, at a time when you are required to file your official report, and before which time you cannot pay any money into the Treasury (and it had never been the custom to pay it into the Treasury), I would appreciate it if you would deposit with the Temple State Bank any amount that you can; and frankly, I was willing for it to be as large as possible.”

As large as possible! And he goes down to the bank with Mr. Heard and takes \$250,000 out of the American National Bank and transfers it to the account of the Temple State Bank, and on February 7th,—and he told you on that night they were discussing his personal affairs—and he becomes the messenger to carry a \$60,000 check from the Secretary of State up to the Temple bank, and it was exhibited at that meeting. Now, what was the purpose of carrying that check there on that occasion, while they were discussing his personal affairs? What was the object, what was to be gained? The Governor said he just happened to be going up that way, and the Secretary of State asked him to carry it. Mark you, the money had already been collected, it was not a clearing proposition. And then, a little further,—and here is another statement about the value of the account to the Governor (reading):

"There was no desire and no thought of any—of the question of the item of interest to be earned upon this amount of money, but simply to safely keep the money in the bank, and, incidentally,—"

This is the Governor's language,—

"And, incidentally, to gain from it the advantage of the prosperous showing that it might give the bank, an advantage all bankers, by day and by night, seek and study how to make."

So, he was seeking a very substantial advantage to his bank, and I say, incidentally, to himself.

Now, the Insurance Commissioner—I want to read you just a short extract from the Governor's testimony with reference to that (reading):

"Q. Didn't you state during your examination here, that you had this conversation with Mr. Patterson, and it was agreed that his money would be deposited in your bank?

"A. No, sir, I don't recall that I did. I don't recall any conversation with Mr. Patterson.

"Q. Didn't you state that you discussed that with him and he told you what the law was?

"A. Yes, sir, he discussed with me the question about these quarterly reports as against monthly reports.

"Q. Yes, and it wasn't then when you were discussing with him the deposit in the Temple State Bank?

"A. I don't recall, I might have.

"Q. You may have done that?

"A. We may have. I don't recall.

"Q. Now, what is your memory about it?

"A. Well, my recollection is that he simply told me that he had found out that the law was different from what they had been doing here, and that he was going to deposit in the bank quarterly instead of monthly.

"Q. And in the Temple State Bank?

"A. Well, he may have said that, I don't know.

"Q. But, as a matter of fact, he had begun the deposits down here?

"A. Oh, yes, there is no denial of that.

Q. Yes?"

Then you found the same thing with reference to Mr. Hancock, chairman of the Highway Commission, a request to clear through that bank. Now, the Governor owned 350 or 360 shares out of 1250, he is a banker of ten years experience, he knew the value of deposits; to say that a deposit is worth nothing because it is taken out every ninety days, is, to my mind, absurd—you may deposit money that may be taken out oftener than that, and yet it is valuable, because as you pay it out, other men put it in, it is the general average that counts, and when we go to the real harm and the real danger of confusing State accounts with his own account and depositing in his bank, we reach one of the high points of the charges made. On August 23, 1915, the Governor's private note for \$5,000, \$600 interest, was paid out of the Canyon City funds, nobody disputes that. A week later, at the request of the Governor's private secretary, they sent him down a statement which includes a charge slip, stating that "this note has been paid, and the note is sent to Austin." Nobody disputes that. The secretary says, "We just wanted to have some data on hand." He could have walked across to the Treasury and could have discovered what amount had been used, it would not have taken him a minute to have read the four items—and I, for one, believe that he did read them. Where is the note, if the Governor did not receive it? Who has it? But by an accident to us, we discovered—and that was not accidental, because we discovered that fact before—that when the last item was paid on

the Canyon City fund, the Governor's account was overdrawn \$1800. Now, you must first understand there was no occasion for overdrawing a single account the Governor had—he did not have an account that he could overdraw without personally becoming responsible for the money. It is not like a personal account—I might find my personal account overdrawn when I didn't know it, and I may not know the cause of it, but if I find a trust fund overdrawn, when I know there is no occasion to overdraw that trust fund, that puts me on notice that there is something wrong. And the Governor did receive a statement showing that his Governor's account was overdrawn \$1800, and he knew that he had of the Adjutant General's money, \$3100 on hand, and he knew that he had of the King's Highway money, \$700 on hand; and yet, he will tell you that it did not occur to him to find out what the trouble was. He used the Adjutant General's money to pay the Canyon City fund, and his account was overdrawn. But that is not all. Two months later, on August 2nd, he gives his personal check to cover the overdraft. Now, why did he give his personal check to cover the Governor's overdraft, unless he personally was responsible for that overdraft? Answer that, if you can. If he would go down and give his personal check for \$1850 to cover the Governor's overdraft, without inquiring why he was doing it, or why he was called upon to do it. I say to you, and I say it without fear of contradiction, the fact that he was put on notice that there was an overdraft, the fact that he took his personal funds to pay the overdraft, brought home to him knowledge of what had occurred, and he did have the knowledge at that time. But certainly, in July he had the knowledge of the overdraft, he admits it. What did he do? Did he pay it back immediately? Did he offer restitution of interest that he had saved? No. He said there was nobody to pay it to; so what good would it have done him to have discovered it immediately, if there was nobody to pay it to? Funds in his own hands as Governor, and nobody to pay it to! My friends, the Treasury was open, he could have deposited in a trust fund in a bank—

but he didn't take a step to do it, or make any attempt to do it after he had learned it, because, as he stated—and I quote his language, I think, correctly, "There was nobody to pay it to."

The next charge involved, and I have discussed it in the main, the use of the Adjutant General's money unlawfully. He had no right to use the Adjutant General's money to make up a deficit in the Canyon City funds, but yet he did use the Adjutant General's money for that very specific purpose, and he did it unlawfully, and he never refunded the Adjutant General's money until he went to make a settlement with Governor Hobby. He gave Governor Hobby his personal checks. We introduced portions of his testimony in the House where we asked him where the Adjutant General's money was, and he said, "It may be in my pocket, it may be in my desk, but I have it whenever it is demanded." We introduced his testimony to show that at that time he knew that the Adjutant General's money had been used to pay the \$5,600 item. And yet, it was not until the House voted the Articles of Impeachment, and he was succeeded by Acting Governor Hobby, that he made any attempt to make restitution of the funds, that, admittedly he had known of since the middle of July.

The next question I am going to discuss is going to be the University question, and questions incident to the University; and at the beginning of that, I am going to read you just two or three extracts from the Governor's statements that disclose his true attitude, as I view it, towards this institution. General Crane read it to you at length, and I will read only briefly. But after it was plain that the men were going to give the professors a hearing upon the grave charges made by the Governor, the Governor made this statement:

"Now, gentlemen, this shows how this is going, you have got your vote, and I will have my vote, we just as well understand each other, and I will tell you now, if you undertake to put these men over me, I am going to exercise my constitutional authority to remove every member of this Board that undertakes to vote to keep him."

Catch the situation? He had brought some charge against the

men, that he said involved moral turpitude, men who had served that institution for twenty and thirty years. The poor privilege of a hearing was asked for them, and when it was asked, your Governor said—listen at him: "You vote to retain one of these men, and I will dismiss every one of you." Let me say to the credit of Alex Sanger and Will Hogg, and the rest of them, they did vote to acquit them; and they went out when their terms had expired. A little further (reading): "You gentlemen can do as you please, that is all right, but you have forced the issue, and I judge I have got to meet directly the reflection on me candidly. Yes. You keep that man Battle here, and you lay a precedent that tells every Governor for forty years that they have got no right to do as they want to." Well, whoever said that the Governor did have a right to do as he wanted to, in the University matters? The Constitution places the authority over the University in the Board of Regents, the Governor has the right to be heard, he has a right to prefer charges, but he has no right to do as he wants to, and the day will never come in this State when a Governor, however big he may be, will have the right to do as he wants to. Those men are humble professors, those men are not as high in station as your Governor, but they have a right to have a fair showing for their characters and their fair names, and your Governor was not inclined to give it to them. I will read a little further (reading):

"Mr. Harrell: These charges or accusations, before you go to a man, don't you think a man ought to have a hearing to refute these charges?

"The Governor: Not necessarily so.

"Mr. Harrell: I don't think any man should be tried for his life or tried for his position on the charges of Mr. Long, or you, or me, or any other member of this Board without he stands before the Board and gives his side of it.

"Governor Ferguson: Now, Dave, you know you and I are friendly.

"Mr. Harrell: Sure.

"Governor Ferguson: You are proceeding on the theory that these

professors have got some legal rights."

I don't think so, I think he was proceeding upon the theory that they had some moral right, and I think they did. There is another provision I want to read here (reading):

"Governor Ferguson: That is the reason I took the liberty of telling Dr. Vinson what I did. Then their argument would not arise, and nothing would be done. As to the argument that it would injure the men's reputation, that is very good, but no man's personal welfare or his dishonor or his ambition should supersede the best interests of the University."

I think it is true. Neither should a man's ambition supersede the interest of the five million people of this State; the text that he used for the professors there can be well applied here. But what did he do when they declined to dismiss them? He proceeded to get him a new Board of Regents. For what purpose? To dismiss the objectionable professors. And in discussing these—I mean no personal reflection upon them, I doubt not they are worthy men—but let us see now just what men he selected: He selected for one his personal counsel, John Ward, of Temple; he selected as another his physician at Temple, Dr. McReynolds; he selected as another, his personal lawyer, John Mathis; he selected as another, Mr. Love, who by virtue of his recommendation was drawing \$1800.00 from the Penitentiary Board at that time, when the Attorney General ought to have been doing the work, and would have done it, if he had been requested to do so. Those are the men that he named. And then another, Mr. Wilbur P. Allen, but I will discuss him later, as he has the distinction of coming under a separate and distinct count. And what happened? You could not better illustrate the Governor's attitude than by his letter to Dr. Faber. The Governor would lead you to believe that he was trying to get Dr. Faber to join him in destroying some improper practices there at the University. Let us see what the Governor said about it at the time he wrote him (reading):

"Austin, Sept. 11, 1916."

"Dr. M. Faber,
"Tyler, Texas,
"Dear Doctor:

"It appeared from recent developments that certain members of the Board of Regents are conspiring with certain members of the faculty, including the President of the University, to perpetuate certain members of the faculty who, in my opinion, contrary to every principle of right and decency.

"It is quite apparent that the issue is going to be decidedly drawn, I am, therefore, writing you to say that unless I may be assured of your full and complete co-operation, I will much appreciate your sending to me at once your resignation as a member of the Board of Regents under my appointment.

"There is a conspiracy on to perpetuate certain members of the faculty, and unless you can tell me you are going to fully co-operate with me, let me have your resignation!"

And I just wish to read a line from the reply of the distinguished Rabbi from Tyler, Texas: "I would rather by far return to my honorable obscurity than to stand in the limelight of public glamour purchased at cost of manhood and conscience."

But he finally resigned. And then Mr. Brents appeared, and he demanded of Mr. Brents that he 'do certain things, and he said to Mr. Brents: "You told me that you had read the testimony, and that you agreed with me before I appointed you." "Now," Mr. Brents said, "I did not tell him that, because I had not seen the testimony, it was not published for seventeen days after I was appointed," and he presented the certificate of the Registrar of the University—the Secretary of the Board of Regents, Mr. E. J. Mathews, to prove that it had not been printed. Let me read briefly from a telegram that passed between the two. In the conclusion of his telegram to Mr. Brents on May 31st, he says: "Your friends assured me that if I appointed you, that I could depend upon your full co-operation. You also assured me of the same fact. I am relying on your word, and trust that you will not further disappoint me."

Now, just take that language, "You promised me that if I would appoint you, that you would give me full co-operation." Mr. Brents says he did not.

But if he did, your Governor had no right to exact of a member of the Board of Regents a promise that his action would be amenable to the Governor's wish, and that his co-operation would be full. That is not all. We read you an extract—General Crane did—I haven't it marked here, where he said, "To let one of these professors overcome me,"—that is the substance of it, "is like letting Sanger's cash boy tell him where to head in." And that seemed to have wounded the Governor's feelings, that he could not dismiss a professor at will. But after the controversy had extended for awhile, he made a tour through West Texas—and I want to say to you solemnly and seriously that I think the statements he made out there were of a grave and serious character. That is a school, I submit, that treats every poor boy and poor girl that goes there nobly. There is no institution in the country that affords to the poor the opportunities and the treatment that that school affords; and yet your Governor, not unmindful of the prestige of his office, not unmindful of the power of his word, went throughout the State, not saying that "Bill Smith was a liar," but saying that that faculty, using the term, he said, "There is more disloyalty to the State government among the faculty of the University than there is among the sixty-five members of the Farmers and Laborers' Protective Association." He said again, "There is no lie so black that those fellows won't tell,"—and he was talking about the faculty! "No lie so black that those fellows won't tell!" And again, he referred to the faculty and student crowd, as "day-dreamers and two-bit thieves." I say it is a serious matter when a Governor of a State goes out upon the stump of his State and makes wholesale charges and accusations like that,—when he assails the good names of men. And what have they done to justify such a thing? It appears that some of them, as other departments were doing, used mileage books and charged the State three cents a mile. I say to you, gentlemen, that that is the rule in the commercial world; if a traveling man furnishes the money to buy the mileage books, he gets the benefit of it; if his house furnishes it, he does not. But I am not approving it. Certainly, if that small profit would discredit and dishonor a pro-

fessor, the charges that we have presented here against your Governor discredits him. He says Dr. Battle promised him that if he would approve an appropriation bill, that he would use every item just like it was appropriated in the sum provided. He says that Dr. Battle told him that he did not intend to use some of the items as they were appropriated, but he wrote two letters to Dr. Battle demanding his resignation, in effect, but never made the charge in reference to that particular promise which he now says is the big thing. He did make the charge that he had agreed to itemize the bill originally, but I am talking about the private conversation with him in his office, preceding the signing of the bill. I think the milk in the coconut is disclosed when the Governor admitted that he had in mind his friend, Mr. Doughty, for President. I do not know Mr. Doughty, and I mean no reflection upon him; I haven't any doubt that he is an educator of high class; but the Governor has no business electing the President of the University of Texas, that is the duty of the Board of Regents. Now, I want to read you something about his action here in reference to Dr. Vinson, and in passing I want to say I did not know Dr. Vinson until this hearing,—until shortly before this hearing began; I only met him casually one time before the hearing began; but has poise, his good judgment and his determination to stand up for what he considered right, has commended him to me as one of the big men of the State. Let me read you now a portion of the Governor's testimony in the House, which we read to you in developing our case (reading):

"Q. I asked you if the only difference between you and the University management now is, that you demand that Dr. Vinson shall be removed?

"A. I don't demand that Dr. Vinson be removed.

"Q. You want him removed, don't you?

"A. I think you can get a better man for the place, he is not big enough for the job.

"Q. And isn't it quite true you sought to have him removed at Galveston?

"A. No, I didn't say—I said he ought to be removed.

"Q. Didn't you demand—didn't

you insist that Brents should vote against him?

"A. I said that he ought to vote against him, yes, sir.

"Q. Didn't you insist that Mr. Allen vote against him?

"A. Yes, sir, and he agreed with me.

"Q. He agreed with you? I don't wonder?

"A. Yes, sir.

"Q. Now, isn't it true also that you insisted that Mr. Kelly of El Paso vote against him?

"A. Yes, sir, and he agreed with me.

"Q. Yes, sir. You thought he would 'stand hitched' before you even appointed him, didn't you?

"A. Yes, sir, and I never said a word to him about it.

"Q. No, no, you thought he was a man who would be responsive to your wishes?

"A. I thought he would be a man that when you told him what was right, that he would stay hitched, and say so.

"Q. Exactly. And that he would not use his head at all as to what was right?

"A. Yes, you bet your life, and we have had some great arguments about this proposition.

"Q. Yes. Now, you did not get Dr. Tucker on the Board, I believe?

"A. No, sir.

"Q. Dr. Tucker of Galveston?

"A. No, sir, I never saw Dr. Tucker in my life.

"Q. Is there any promise on your part to put Dr. McReynolds back again?

"A. No, sir.

"Q. At the first vacancy?

"A. No, sir.

"Q. Well, at any vacancy?

"A. No, sir.

"Q. Now, Governor, didn't you ask Mathis to vote against Vinson?

"A. John Mathis?

"Q. Yes, sir?

"A. I told him that I thought that he ought to be removed.

"Q. And he did vote against him?

"A. I think he did.

"Q. He voted against him? You asked Love to vote against Vinson?

"A. I told him I thought he ought to be removed.

"Q. And Love did just what you said?

"A. Well, he agreed with me.

"Q. He voted against him?

"A. I don't think they have ever voted on Vinson.

"Q. Well, you know they are against him. Now, Governor, didn't you select these gentlemen because you thought they were opposed to Dr. Vinson, and would vote against him?

"A. No. I thought they would co-operate with me to put the University on a proper plane, and suppress all that insubordination against the government, and disrespect for the government.

"Q. Well, didn't that include the dismissal of the President?

"A. If necessary. I think that is one of the ways to do it.

"Q. Yes, you think that is one of the ways to do it?

"A. Yes, sir."

Now, I think in a way, Mr. Kelly of El Paso was done an injustice. The Governor tells you men of the House that he will "stand hitched" before he ever consults him. I do not think that ought to be binding on Mr. Kelly. It was not introduced to reflect on Mr. Kelly, it was introduced to show the Governor's mind, he was trying to get a man who would "stand hitched," a man who would do his will and abide his wishes, and that was his entire fight from beginning to end. Now, gentlemen, there is another item here—Mr. Wilbur Allen's remission, the remission of the judgment against Mr. Wilbur Allen. You all remember the fight in the latter part of May down at Galveston, when Mr. Allen's position was doubtful? You remember what Mr. Fiset said, that about the first of April or the first of May that he talked to Mr. Allen about Dr. Vinson, and that Mr. Allen said that Dr. Vinson had been before the Board and had given every evidence of being a big man, that he had already accomplished big things; and that on the 6th day of June, in the afternoon, he met him again, and that Wilbur Allen said to him, "Why, that man was the fellow that wrecked the Presbyterian School out there, he is nothing but a plain preacher, and isn't fit for anything." Now, the 6th of June is a pretty important date. We introduce Mr. Odle, who told you that on June 4th, in the Governor's office, the Governor told him that Mr. Allen was disloyal

to him; and yet, on June 6th, the Governor remits a \$5000 fine against Mr. Allen; and Mr. Allen goes forthwith to Dr. Vinson's home to ask him to resign! From that day to this he has been against Dr. Vinson. I say your Governor ought to be charged with presuming the natural effects of his acts. If I sign a man's bond over in Dallas and he skips, I pay it. There ought not to be any distinction, we ought not to make fowl of one and fish of another; but the Governor, knowing that Mr. Allen had been disloyal, as he testified, with the other side, changes him over night with the people's money, I say to you, seriously and solemnly, it is a grave offense.

Now, I am going to close quickly. I want to read you just an extract, I want you to listen attentively to it; I have reference to the currency that the Governor received, and I am reading from his testimony in the House as to the conversation that he had with the men that let him have the currency (reading):

"And so I began to look around to see what I could do relative to my financial necessity and my financial dilemma, if you please, that had been brought upon me by the investigation of my private affairs by those who were interested in having me discussed and unnecessarily exposed. And so I went to some of my friends and laid before them my whole financial condition, and I said to them"—

Now, listen to what he said to his friends:

"I cannot blame any man for not taking my note at this time, but this is one time I have got to appeal to my friends. Here I am solvent, here I am, have gone through an investigation before the Investigating Committee, wherein item by item as to my worth, before those, and in the presence of those who had raked this country with a fine-toothed comb to break down my statement, and to show that I was not worth as much money as I said I was worth, and yet, with all that, they never put a witness on the stand at the last investigation who showed that a single dollar or the valuation of my estate was incorrect."

Catch the substance of that, "Here I am, solvent, here I have gone through an investigation before the Investigating Committee,

wherein item by item as to my worth before those, in the presence of those who had raked this country with a fine-toothed comb to break down my statement." That investigation began on March 7th. The Governor tells you that when he went to his friends, he told them about what occurred in that investigation; and yet, on February 23rd, before that investigation began, he deposited \$11,200 in currency in the American National Bank, that before that occurred he paid his note of \$37,500 in currency, if you please. And he had in his desk for two months \$20,000 in currency; and yet he says, notwithstanding that he received part of this money thirty days before that investigation began, that his conversation with those friends, was that, "I have just gone through an investigation before the House Investigating Committee, where they have gone item by item into my private affairs." I say to you that he did not have that conversation with them about a great part of that currency, because the currency was received, as he testified, a month before that investigation.

The Governor tells you that it is a private matter as to where he received that money. It may be. I wish it was a private matter; I wish he could demonstrate that it was a private matter. But I believe that it is a public matter. The people of this State have entrusted their Governor with great power; they have honored him beyond measure, and they have a right to know to whom he has put himself under such great obligations. Your Governor told you that his entire estate practically was mortgaged before he borrowed that money, and it was either mortgaged or pledged. So what manner of security could he have given for the money? What manner of security did he give for the money? Why was it paid to him in currency? Why did he leave \$20,000 in his wooden desk for sixty days, when there was an iron safe in his office? Why won't he tell you the date he received that? Let's read here just a few questions asked him by General Crane: "You decline to tell from whom the \$156,000 in currency was obtained? Yes." The Governor says the reason was because they exacted a pledge from him that he would not tell. Why

did they exact that pledge from him? They must have been wonderfully fine friends to lend him that \$156,000. What objection could there be to disclosing it if it were a loan? Next: "You decline to tell where it was obtained? Yes, sir." Now why decline to tell where it was obtained? Why should the place in which it was obtained be material here?—and yet the Governor declined to say. "You decline to tell when it was delivered to you? Yes." Why should he decline to tell the date that it was delivered? How could the date become material? It must be material or he would tell you the date, and yet "I won't tell you the date when it was received." "You decline to tell whether you gave any security? Yes." How could the giving of security affect his friends? "You decline to tell whether you gave a note or notes and the interest rate, if any? Yes." Why should he decline to tell whether he was paying interest on the money or not? "You decline to tell when the sum or any part of it is due? Yes." He declines to tell when it is due, and yet he says that if he disclosed the names of the men they would foreclose on him and ruin him. How do you know they can unless you know when the indebtedness is due? Did he in fact borrow money on account of being hard pressed? Let's see about it. He paid three \$37,500 notes with the currency, didn't he?—and there wasn't a one of them due until December, 1917, so they could not have pressed him very hard on those notes, could they? We are thus compelled to reason about these matters frankly and candidly. Then again, at this juncture—I haven't a copy of them, but I remember the questions, I believe; I think it was Senator Strickland that propounded three questions to the Governor: "Did you get any of the money from anybody interested in the breweries?" The Governor turned, thought a minute, and said: "If I answer that, by process of elimination you could find where I did get it." Next: "Governor, did you get any of that money from the oil interests? I decline to say." I say the people of this State have a right to know and the time will come when they will know whether that came from the brewery interests or the oil in-

terests or not, and they will know, and the time will come when they will find out—men cannot avoid the process of the courts always—where that money came from.

Now, gentlemen, I am about through. If the people of Texas sent you gentlemen a message today it would be but three words; they would say: "Do your duty." That's all they would say. Our people are hardworking, patriotic, honest people. As I said in the beginning, they have suffered much politically and they have forgiven much. They are not a harsh people; they are a generous people; in a sense they are a merciful people. But today, with the facts before you, they expect you to and I know you will fearlessly do your duty. We do not come before you and ask you to impeach the Governor solely because he permitted Mr. Woodman to remain as Commissioner after you had said that he should not so remain. We do not come before you and ask you to impeach the Governor solely because he promised to pay back the money illegally appropriated for him and failed to do it. We do not ask you to impeach him solely because he appeared before the House and told them that he did not owe the Temple State Bank a nickel when in fact he owed them over seventy-five thousand dollars. We do not ask you to impeach him solely because he sought to coerce the Regents. We do not ask you to impeach him solely because he libeled and slandered a cherished institution of this State and libeled and slandered its professors. We do not ask you to impeach him solely because he used fifty-six hundred dollars of the State's money. We do not ask you to impeach him solely because he received under unusual circumstances \$156,000 in currency and then declined to disclose that. We ask you to impeach him because of twenty-one separate and distinct charges. We ask you to impeach him because we have proven twenty-one charges, and not one. We ask you to impeach him because the facts warrant and demand impeachment. I do not say that in any vindictive spirit. I do not say that except in a spirit of discharging my duty, as I know you will discharge yours. I speak before men that I know are going to do what they think is right, and I make

no distinction; the man who votes with me will be doing what he thinks is right, and if any Senator here under his conscience, before his fellow-man and his God, wants to vindicate the Governor I will accord him the same honesty of purpose as I do those who vote with us; I believe he will be actuated with the same honesty of purpose, but do not believe he will be voting in the interests of the people of Texas; I believe he will be mistaken in his views about the matter. That is all. I have formed that opinion and I believe the facts will justify me.

In conclusion, if I may be permitted, I will read from a poem that I just clipped from a daily paper, a poem that you may have heard, and that is particularly appropriate at this hour:

"God give us men! A time like this demands
Strong minds, great hearts, true faith
and ready hands,
Men whom the lust of office does not
kill;
Men whom the spoils of office can
not buy;
Men who possess opinion and a will;
Men who have honor, and who will
not lie;
Men who can stand before a demagogue
And scorn his treacherous flatteries
without winking.
Tall men, sun-crowned, who live
above the fog
In public duty and in private thinking.

And in conclusion, my friends, let me say that I verily believe that the members of this honorable body live above the fog of public duty and in private thinking.

The Chair: The Court will come to order, please.

Address of Judge Martin.

Judge Martin: Mr. President and Senators, sitting as a Court: In appearing before you today as counsel for the Governor of this State, I desire briefly to repeat in your presence in substance what I have said on a former occasion connected with this same trial. I want to say to you Senators that I have had little to do in the political controversies of this State and personally I have met few of you until the present association with you in connection with this trial. I have been so situated in life that I

have had little to do with the political contests of this State and only in a limited way have I participated in them, and necessarily my acquaintance with the great majority of you must have been very limited. I occupy rather an unusual position here to-day, because when men are charged, as your Governor is charged here, as a general rule there are called to his assistance and association lifelong friends and supporters. It happened to be my lot in the first campaign of Governor Ferguson to oppose him politically and not to have been classed as his political friend. My association with him has been of much more recent date, and I feel that in appearing here today in his behalf I do so from no partisan standpoint, but I appear before you Senators to represent his interests as his attorney and along in the discharge of that duty, if I know how, to try to represent him conscientiously, honorably and honestly. If anything that I should say in the course of this argument should be unwarranted and not borne out by the testimony or the facts surrounding this transaction you will, I know, discard it, because I realize that I am addressing men in this Senate of much more experience than I have ever had and men whom I could not mislead should I be so base as to attempt it. But I want to talk with you a little while this afternoon; I want to counsel with you, try to get down in the same atmosphere and reason with you and see whether or not the evidence in this case would warrant the extreme penalty that counsel representing the House Managers insist should be inflicted in this case. I am not capable of making an address that would interest the galleries or from an oratorical standpoint would interest the members of this House; but I come to talk with you in every-day parlance, to reason with you, to ask you to exercise your good common sense and judgment and let your judgment apply to the surroundings of this transaction, and then I would have you do nothing else than your duty. I know that in cases of this character it sometimes happens that men are swept off their feet and they allow the partisanship of the hour, the ill feeling and prejudice that characterize political controversies sometimes to usurp their better judgment. But I realize at the same time that

while we are all susceptible to those influences—I am not in position to say that I myself am not susceptible to them, you are not, and the strongest man in this country is not, but I do know this: I believe that I know Texas and her people and that when the spirit of partisanship has passed over and the citizens of Texas, be they officials or laymen, get down to a dispassionate consideration of what they conceive to be their duty, that they are going to exercise it and try to perform their duty as they understand it in accordance with the laws and Constitution of this State, which has been referred to so often. I want to say to you before commencing the argument upon the facts of this case—and I hope that I may be pardoned for saying it—as a citizen of Texas I served the people of this State in a public capacity for years. I believe that I have always tried to conform to the laws as I understood them and the Constitution of this State. I want to say to you that in fifteen years of service in a public capacity and speaking from my own standpoint I know that I was conscientious in trying to do right, to observe the law, but in the exercise of official discretion in that time I know that I made many mistakes, and I do not believe there is a man in public life today from the highest position to the one of the most lowly character but what has made many mistakes when it comes to the exercise of official discretion; but some of the charges against the Governor here, my friends, when you come to eliminate all the portions that are not couched in language of a definite nature, the whole thing in my opinion is simply a mistake of official discretion. Later we will take the charges up one by one and consider them, but first, before we get to that, there is no man, I take it, in this Senate that would do this Governor an injustice, I don't care what your political differences might have been in the past, I care not what bitter feelings may have been engendered, I take it that every man under the solemn sanction of the oath which he took with uplifted hand before Almighty God and the assembled witnesses there to do his duty officially wants to do it as he understands the laws of this State. That comes to a discussion of these demurrers and a discussion of the case

all together. Let us go back to the organic law of the State and see where we are; let us reason these things together as men of common intelligence and 'ordinary understanding and see whether or not we are pursuing the right course under the laws of the country. I take it that you would not for the sake of the State that you live in want to do an act that would bring discredit not only upon the Governor individually, but upon the entire State at large unless you felt that you were warranted in doing so under the laws of this State.

Now, then, with these remarks, what does our Constitution prescribe upon this subject? The Constitution in plain and unmistakable terms lays down the proposition that the power of impeachment is vested in the House of Representatives; that it shall be tried by the Senate; that the Senators when trying an officer against whom articles of impeachment have been preferred shall be under oath to try the party against whom the articles are preferred. Now, the Constitution does not say further upon that subject; it just simply lays down a broad principle that the power of impeachment is vested in the House and that the Senate under oath shall try the charges. Now, the Constitution is further indefinite insofar as the procedure is concerned, but lays down the proposition as I have just stated, that the power of impeachment is vested in the House and you gentlemen shall try them. But what else? The law goes further than that. The Constitution itself says in this connection, in Section 7 thereof, that "The Legislature shall provide by law for the trial and removal from office of all officers of this State, the modes for which have not been provided in this Constitution." Now, unless you take the very simple statement that the power of impeachment vests in the House and that the Senators shall be under oath to try the same, unless you take that plain statement as full authority for the mode of procedure in the case, why, you absolutely have no mode of procedure prescribed at all, and that it was not so considered by those who drew the Constitution is borne out, in our opinion, in Section 7 of the same article, which reads that "The Leg-

islature shall provide by law for the trial and removal from office of all officers of this State, the modes for which have not been provided in this Constitution." Under Article 16 the intention of the Legislature, I take it, is further borne out that the mode and manner of trials should be prescribed, by Section 2 of Article 16, which provides that "Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, those who may have been or shall hereafter be convicted of bribery, perjury, forgery or other high crimes," showing and relating back to see to what crimes they had reference—forgery, perjury, and other high crimes; and you remember that the articles charged against this Respondent here set out that he has been guilty of these high crimes. Now, then, what is it, the high crimes referred to there as classed along the same lines as perjury and forgery, whether or not there has been any method prescribed by the Legislature? This Constitution provides further that the Judges of the Supreme Court, the Court of Appeals and the District Courts shall be removed by the Governor on the address of two-thirds of each house of the Legislature for wilful neglect of duty, incompetency, habitual drunkenness, oppression in office, or other reasonable cause which shall not be sufficient ground for impeachment. I am calling your attention to these provisions of the Constitution, first, Senators, to show that in our opinion the intention of the framers of the Constitution was that when charges of impeachment should be preferred it should have been the duty of the Legislature to have prescribed a mode of trial; and, second, as used in this language for wilful neglect of duty, incompetency, habitual drunkenness, oppression in office, or other reasonable cause which shall not be sufficient ground for impeachment, together with the demand in the next article that provision shall be made for the removal from office of men guilty of like crimes and other high crimes as mentioned there, in our opinion means that when the framers of the Constitution vested that power of impeachment in the House and the power of trial in the Senate, there

can be no escape from the contention that it meant that the Governor of this State should never be impeached except upon grounds of sufficient gravity to establish in effect the offenses and character of offenses named in this Constitution. Why, the statement has been made here that it is not even a criminal offense, that it does not carry the punishment of imprisonment, and the only punishment is removal from office, and that it can be written into the verdict the denial of the right to hold office in the future. Why, could any one take the position under the laws and decisions of this State that it is of less magnitude than a conviction for a felony, to be removed from the high office of Governor of this State and perchance have also written into the verdict a denial of the right to hold office in this State? I say to you, Senators, in all seriousness that the time will never come when intelligent men, looking at it from a dispassionate standpoint, could ever arrive at any other conclusion than that the punishment is more severe than to be confined in a penitentiary for years and years to come. Tell me that a man elevated to the position of Governor of this State and then upon suspicion and personal conduct not satisfactory to all with whom he comes in contact is to be dealt with and punishment inflicted driving him from office and denying him the right, perhaps, to hold office in this State, why, God knows there is no man of common intelligence but what would rather suffer the penalty of being confined in the penitentiary for many long years to come. Therefore, first, it is doubtful whether or not the Legislature has conformed to the Constitution in prescribing the mode of this trial. Secondly, we take the position that under the definitions in this Constitution, running through the several articles mentioned, that it was the intention and the conception of those who wrote the Constitution of Texas that in order to impeach the Governor or the officers mentioned in that article, the crimes that should be established against him were along the lines of felonies and misdemeanors involving moral turpitude or other high crimes, and I do not believe that I am misconstruing the plain lan-

guage of the Constitution when we take this position.

Now, then, with these preliminary remarks, let's take up these charges and see if we can analyze them and ascertain the very gist of what is charged against the Respondent and upon what basis they ask this severe penalty. There is one phase of it before taking up these charges in detail that I want to call Senators' attention to, and that is: The question has been discussed as to whether or not this is a criminal proceeding, and you have had that question before you. I take it that whether or not it should be classed as a criminal proceeding or a quasi-criminal proceeding, that the same rules of evidence would apply and that before the Constitution or the laws of this State ever contemplated that any man should be convicted of an offense of this character it devolves upon the proponents to establish these charges against him beyond a reasonable doubt; in other words, if, sitting here in the capacity of a juror to pass upon this question, any man should find deep down in his conscience that there is a reasonable doubt as to the corrupt motives, or whether the motives actuated the Respondent in any of these transactions, that it would be your duty under the laws of this country to find in favor of the Respondent.

In the well considered case of the State against Hastings, from the State of Nebraska, this proposition is enunciated: "There is one fact that cannot fail to impress the judicial mind from an examination of our Constitution, that the provision for the trial of impeachments before the Supreme Court was to insure a strictly judicial investigation according to judicial methods. It cannot be successfully maintained that this court has succeeded to any of the political functions of the Senate as a Court of Impeachment under the first Constitution."—And in that connection you will notice that in some of the States the modes of procedure in impeachment trials have become so unsatisfactory that the people themselves have made the change and vested it in judicial proceedings—"It cannot be successfully maintained that this court has succeeded to any of the political functions of the Senate as a Court of Impeachment under the first Constitu-

tion. The formal practice has been justly condemned on account of its political and, it must be confessed, too frequent partisan character, but the substitution of a judicial oligarchy for the form of democracy is not to be commended as a measure in the interest of reform. It is so incompatible with the genius of our institutions that no lawyer or statesman would be inclined to countenance so absolute a despotism and practice, which would make that a crime at one time or in one person which would be deemed innocent at another time or in another person. But the position that the Senate, when trying an impeachment, is a law to itself, is bound by no law, may decide the case as it wills, is illimitable and absolute in the performance of special, restricted, judicial functions, in a limited government, is revoltingly absurd. The sound rule and the one approved by the most eminent jurists and statesmen of this country lies midway between the two extremes. The result is that an impeachable high crime or misdemeanor is one in its nature or consequences subversive of some fundamental or essential principle of government or highly prejudicial to the public interest, and this may consist of a violation of the Constitution, of law, of an official oath, or of duty by an act committed or omitted, or without violating a positive law, by the abuse of discretionary powers from improper motives or for an improper purpose. But to say that a high public officer, with good motives and with an honest intent to obey, though he mistake the meaning of the statute, can be found guilty of a high crime or misdemeanor which shall subject him to the heaviest punishment which can fall upon a public man in high office is to assert a doctrine never before heard in any court of justice." In other words, the courts lay down the principle that to subject a man to the highest penalty for any honest mistake that may be made in connection with the performance of any public duty is something that is never heard of in the courts of this country. "Another question which is suggested in this connection is the character of this proceeding, whether it is to be regarded as a civil action or a criminal prosecution for the purpose of the

production and the quantum of proof to warrant a conviction. It may be safely asserted that the decided weight of authority in this country and England, if indeed there exists a diversity of opinion on the subject, is that impeachment in that respect must be classed as a criminal prosecution, in which the State is required to establish the essential elements of the charge beyond a reasonable doubt. But an impeachment before the Lords by the Commons of Great Britain in Parliament is a prosecution of the already known and established law and has been frequently put in practice, being a presentment to the most high and supreme court of criminal jurisdiction by the most solemn grand inquest of the whole kingdom. Because it does not satisfy me upon this point beyond a reasonable doubt and because it is quite wanting in everything like directness and force, I feel bound to vote not guilty," said Senator Wright in using that language.

Senator Hudspeth: Mr. President, I want to follow the argument, and I can't do it with that noise in there. There seems to be some kind of social party out there. (Senator Hudspeth referred to conversation being carried on in committee room adjoining Senate Chamber.)

The Chair: Mr. Sergeant-at-Arms, preserve order.

Judge Martin: Language of similar import was used by Senators Christiancy, Booth, Oglesby, and others. But we are fortunately not without judicial authority on the subject. In the Impeachment of Barnard in 1872, the judges of the Court of Appeals of New York sat with the Senators and appear to have been consulted upon all doubtful questions. Chief Justice Church, speaking upon the subject under consideration, said: "If I felt warranted in balancing the evidence and in determining that question in a civil action, I might come to the conclusion that the evidence of payment was not reliable, but we are here in a criminal case where the respondent is entitled to the benefit of every reasonable doubt, both upon the facts and the law, and I cannot say that the evidence which has been produced is not sufficient to create some doubt." Judge Andrews said: "I shall vote not guilty upon this ar-

ticle, upon the principle that this defendant is entitled to every reasonable doubt and that that doubt as to his guilt according to the charge exists in my mind upon the evidence in the case."

Now, gentlemen, I call your attention to these decisions, and I know that at times it is tiresome to read decisions to you, especially after the long, laborious trial that you have been engaged in. However, this Respondent has the right under our Constitution to be heard by himself and his counsel, and while knowing that it will be tedious to you to follow me in reading these decisions, I am simply trying to impress upon you the laws of the country, to the protection of which the Governor is entitled. Why, a great deal has been said here in this trial about the Governor's being entitled to no more protection and to no more consideration under the laws than the most lowly or the most humble. That is a doctrine to which we subscribe most heartily. And there is another right to which he is entitled and one that is more likely to be forgotten, and that is because he happens to occupy the high position of Chief Executive of this State he ought not to be persecuted any more than any other individual. I want to tell you men who have the experience of coming in contact with people in everyday life that there is more danger in a man who happens to occupy a high position being unjustly dealt with than the most humble and unfortunate outcast in the land. You can place on trial in that court room down yonder the most unfortunate and poverty-stricken wretch in the whole country, and I will tell you right now that nine times out of ten he will be more carefully protected from the standpoint of ill-feeling than the highest official in the land; and I am not saying that is a weakness upon the part of any man in this Senate, but it is a weakness that applies to all of us the world over. Human nature is human nature the world over and it is in the very make-up of us all, and I want to tell you that I am as earnest in this assertion as anything I ever said on earth, and that is that it requires more backbone, more honesty of purpose and more courage to deal as the law points out with

men in high station than it does with men in low station, because, unfortunately for us, unfortunately for our country, unfortunately for our State, it has grown up to be popular, it seems, that men in high station often are unjustly criticised; it seems to be a popular demand and seems to be popular with the public that whenever a man in high station is so unfortunate as to be criticised, it seems that the public are clamoring for some kind of punishment to be inflicted upon him, oft-times without there being a just basis therefor. Therefore I am standing before you today in the interest of this Respondent, not begging for mercy—God knows that is not our purpose—but standing before this Senate and asking you, in so far as it is possible for human nature to do so, to try for the present to shut out from your minds every consideration and every influence and try to give this man a trial under the rules of law and procedure that you would give any other man that happened to be before you on trial today. And I want to make this assertion here, and make it with all seriousness and honesty of purpose, that I do not believe there is a man in this Senate today, who, if sitting in a jury box in the District Court trying a man upon these charges, would ever consent to go out into the jury room and write a verdict of guilty against this Respondent. And if that should happen to be the case—my God!—I appeal to you in the name of justice and reason and right, and ask you how could you ever consent to write a verdict of conviction against him in this proceeding that would be worse than any confinement or imprisonment that you could inflict upon him? You are confronted with a strange proposition today—with charges against this Governor, this Respondent, upon which the State of Texas could not go down into the court house of Travis County and obtain a judgment against him in a civil action for one cent—could not recover five cents against him by a judgment in a civil action—and yet it is asked that he be impeached and deprived of the high office to which the people of Texas have elevated him. It seems that it is a strange proceeding.

Take the allegations in these charges and embody them in the form

of a petition in a civil case, let the Attorney General or the District Attorney bring suit upon them in the District Court of Travis County, and take every one of them as confessed and as proved, and yet, under the attitude that this case is in today, not a cent could be recovered against him; and I say to you Senators, God being my witness, and from the bottom of my heart, as shown by the evidence in this case, to write that verdict against this Respondent would be doing him a cruel wrong and an injustice that I don't believe the evidence in this case will warrant. What is he charged with? Why, it is charged that he received a hundred and one thousand and some odd dollars of the Canyon City Normal School fund, and that he deposited it in these banks—the Temple State Bank and the American National Bank. Not one dollar of that money has the State ever been able to show that he owes them today, not one dollar of it at the time these complaints were made; and every single solitary cent of that money that came into his hands has been paid into the Treasury of this State before there was ever any complaint about it whatsoever. Why, they say that the facts afterwards developed that \$5,600 of that money was used in the payment of a note up there that belonged to the Governor's private account. Right there, as we go along,—what difference does it make whether that money was deposited up there in the name of "James E. Ferguson, Governor," or James E. Ferguson as a private individual? There is no law in this State regulating the manner of that deposit, as to what name that it is in. But if it was placed up there according to his own designation, in the name of James E. Ferguson, Governor, \$5600 of it was used, according to the evidence in this case, to pay that note; and not a human being on earth, so far as this record discloses, ever knew a thing on earth about it, so far as the Governor and his office force is concerned, until recently right down here in the grand jury investigation it was called to his attention. Now, Mr. Harris says, in his argument, that he believes that Jim Davis saw that charge slip. Well, there is no evidence that he did. Are you going out into the broad field of speculation and say that because Mr. Harris, unsupported by his oath or affirma-

tion, states that he believes that Davis saw it? Davis tells you under his solemn oath there upon that stand—and he impressed me as a man who was telling the truth—tells you under his oath that he never saw that charge slip until the matter was called to his attention by the Governor when he returned from the grand jury room; and then they went and got the statement—those little charge slips pinned together there one on top of the other, and that one down near the bottom of the four, and in these items that were shown there, it was shown that this amount had been remitted to Austin; yet all that money had been paid into the Treasury before Governor Ferguson ever knew that the money had been used up yonder. Gentlemen, I don't care, in so far as this prosecution is concerned, whether you believe the statement of Davis or not,—if there is anything that can be established by human evidence and the surroundings, it is that this Respondent never knew a thing on earth about that \$5600 being used up there until these slips were brought to him down here after this grand jury investigation. Now, what does the law say? Why, counsel have read to you certain things that would constitute a misapplication of public money, but I want to tell you that under the law that the whole charge under that statute is based upon the question of it being done with a fraudulent intent. And when you go to consider this charge, I hope that you will turn to Article 96 of the criminal statute and read it,—“If any officer of the government who is by law a receiver or depository of public money, or any clerk or other person employed about the office of such officer, shall fraudulently take or misapply or convert to his own use”—*fraudulently* take it or misapply it, either fraudulently take it or fraudulently misapply it or convert it to his own use, “any part of such public money, or secrete the same,” and so forth, “he shall be punished by confinement in the State penitentiary.”

Now, I will say to you that that language in that statute—the entire charge is based upon the fact of whether or not the act is fraudulently done; and then to say or contend that Governor Ferguson could be held up to a charge of fraudulently attempting to defraud the State of Texas out of

one dollar, under the circumstances as presented by this evidence, to my mind would be absolutely absurd, and it could not possibly have any such unreasonable construction. That money—that account had been settled down there before anything was ever known about that item.

Why, they charge that he used some of the Adjutant General's fund and the King's Highway, and this other money that he had there. Why, gentlemen, those items were matters affecting his personal affairs, except the Adjutant General's fund. Matters that he was responsible to the State for whenever called upon, and so far as the King's Highway fund and the Red Cross and the Good Roads and the Flood Sufferers are concerned, it would have made no difference in so far as these charges are concerned if he had spent over dollar of it that came into his hands; that would have been a matter of civil contract between himself and the parties that placed it there. But no such intention ever entered his mind, because the account was kept down there in the Governor's office and was returned to the State Treasury, and when Governor Hobby took over the office every cent of it was turned in there and receipted for.

Now, to say that this Senate, sitting as a Court of Impeachment, under testimony of that character would undertake to say that Governor Ferguson fraudulently attempted to defraud or to appropriate one cent of that money under those circumstances—it seems to me incredible. Why, the very gist of any criminal transaction, and this is based upon this criminal statute under Article 96, is that before it could be an offense that it must be fraudulently done. And what is the meaning of the word "fraudulent"? It is that the property must be taken without the consent of the owner, and that is not all, but furthermore, that it was done with the intent to deprive the owner of the value of the same and to appropriate it to his own use and benefit. Ah, you can say that we can just brush aside the evidence in this case, we can brush that aside and say he is guilty of it, of the offense, and he had no right to use it. But when you do that, Gentlemen, you are not giving to this man the fair and the impartial trial that the laws of this State say that he is entitled to.

And for any jury in Christendom to take the facts surrounding that transaction, when the very account was closed up and paid according to the books and the only books that he had in his office long before any demand or complaint was made about it, it seems to me would be doing to him an injustice that would never be warranted under any conditions on earth.

Well, I must not dwell too long on that; and we go from that over to the next charge—and I am not going to take them seriatim, because these facts will be discussed a little later. It seems that one of the gravest charges and the one most complained about, is the University out here. I am not going to devote much time to that because it is inconceivable to me how that any man can ever arrive at any conclusion under our Constitution that the Governor of this State is not entitled to exercise his discretion in the matters of veto, especially a matter about which there is so much diversity of opinion. There are two things that cannot occupy the same sphere at the same time, and that is official discretion and judicial power. Wherever official discretion is delegated to any individual or agency, and you undertake to regulate it with judicial power, official discretion must vanish, it has no further place where judicial power intrudes. This government was formed and patterned after the government of the United States, and these different powers were given to the different spheres and different departments of the government for the wise power of one acting as a check upon the other; and when the power of veto was given to the executive it was given for the very wise power of regulating any kind of combination that might exist between the other two, and vice versa, the other two given power, by a certain vote, to override his veto, but one absolutely independent of the other, and one with as much power as the other. But in this charge they say it was wrong for him to veto that measure and not call the Legislature back together. Still another exercise of his executive power. Now, the very statement shows the wisdom of that proposition; here is one class against the Governor saying "you did wrong, you had no right to veto

that appropriation;" and, on the other hand, "if you did, it was your duty to call the Legislature back together." There is another class saying, "you did exactly right." And the very statement and the very assertion of the proposition shows the wisdom in the framers of the Constitution in making those provisions and placing them there. Why, would this Senate say that because he differed upon a question of this character with certain others who advocated another power, would be reasons for impeachment? I want to say to you gentlemen, and I know you are familiar with the history of this country, some of the greatest men that ever lived in it differed upon the wisdom of even the policy of establishing a University. Sam Houston—and I don't suppose there is a man here that would doubt his patriotism—took the position that it would be the establishment of an institution in favor of the rich as against the poor. John Ireland was Governor of this State, and no one doubts his patriotism, took almost the same view of it. And to say that the Governor has no right to interfere with it at all after it is established. And it is a well known fact that Ireland went into the University itself and to the Board of Regents and made a protest about people from other States receiving any benefits from it.

Now, I want to say this, and I speculate that I will be warranted in saying it: I never had the advantages of any university, I never had the advantages of even the common schools of the country! God knows, I wish I had! I want to say, if I may be pardoned for saying it, that has been one of the great regrets of my life, that I did not have those advantages. But I was busily engaged in trying to make a living, never had the advantages of it, and I want to repeat here in this Senate what I said in the trial of the injunction case against the Board of Regents in Travis County, in the District Court before the District Judge, that in so far as I am concerned, although I have never had a day's benefit from this University, that I want to say that there is not a man that ever went within its walls, there is not a man that ever graduated from

the institution, there is not a man that feels he is as devoted to it as the dutiful son to his honored mother, that would have any more devotion towards the University's maintenance than I have. I say, God speed the day when we will all recognize it as being a cherished institution of this State. God knows that I would not, if I had the power, and I know I have not—but if I had, I would not throw an obstacle in its way. But I do say to you, Senators, though humble the station that I occupy in life, the day will come in the history of this country when you, as well as I, will see that the better course is to provide for that institution as the law requires. I want to say to you that never in all the history of the procedure of this country has a man been so unjustly condemned regarding an institution, as this Respondent, and his friends! Why, take the history of it, and there we are confronted at the outset with that constitutional question that seems to me as plain as A, B, C,—a Constitution that provides the manner of its maintenance, and that is, that the appropriations—I am not going to stop to read it now—but that Constitution that has been read in your hearing provides that all appropriations and donations of all character made for the University, shall go into a permanent fund and be invested in State and United States bonds, and the revenue arising from it shall be expended to support the University. Here I want to say to you that it is a part of the law of this State, and a part of its history that it was never recognized up until about the Twentieth or Twenty-first Legislature that any money could be appropriated from any other source than from the permanent fund, the revenues derived from it, and even the first appropriation from the permanent fund to the University was donated as a loan to get around that constitutional provision. Why, the very time that Governor Hogg was nominated Governor at San Antonio, it was well known that no one ever conceived up to that time that there was ever any other means provided for supporting the University of Texas; and if you have any doubt about that being the construction of the Constitution, I want to read

one clause from the Acts of 1881, only five years after the Constitution of 1876 was adopted; and many of those people that were delegates to the Constitutional Convention were in those succeeding Legislatures, and in the Legislature in the year of 1881.

General Crane: Give the page, please, what page are you about to read from?

Judge Martin: I have not got the page, I have mislaid my citation here.

The Eighth Section of the Acts of 1881, five years after the adoption of the Constitution of 1876, I say to you, if there had been any doubt about the plain reading of the Constitution, by referring to this Act. It will show the construction placed upon it then, and that is the eighth section of the Acts of 1881, the very act establishing the University of Texas. It says that the salaries and expenses of the University shall never exceed the interest on the University fund and the land sales fund, or ever become a charge on the general revenue of the State. Now, I am not citing to you this law as being antagonistic to the institution, but I am citing you to the very law creating the University, which shows that up to the very time that it was established there had been no other construction placed upon the Constitution then—that all appropriations made for its support should go into a permanent fund and the interest derived from the investment used to maintain the University. I say to you in all candor, Senators, and as I stated in the outset, I am not attempting to mislead any man here—I would not if I could, and I know I couldn't do that if I should even attempt it, I could not succeed; the Governor is not pleading the Constitution in justification of his act, because at that time, he frankly tells you, that he did not consider it, it had not been called to his attention. The truth is, that gradual encroachments have been made upon the current revenues of the Legislature, and after the first one had been designated as a loan, to get around the constitutional provision, each Legislature followed that procedure, one after the other, and perhaps each Governor, taking from his predecessor in office that it was in fact con-

stitutional, approved them. Governor Ferguson, like his predecessors, did the same thing; and there is where, I say, we come to, in my opinion, the injustice of this accusation against him. A man, according to his own statement, accustomed to battling his way through life, left an orphan boy over yonder in Bell County, and struggling with adversity from time to time, until elevated to this position, the high position that he occupies, he comes into office, and the very first—almost his first official act, is to approve an appropriation for that University, greater than that, in any one term, of all his predecessors, and the figures doubling up to the enormous sum which you have had recounted here, and which I do not exactly recall now. And then to tell me, in the face of an action of that kind that he was trying to strike down the Constitution and to destroy the institution! Why, it is absurd, it seems to me, to take a position of that kind!

And then, on the other hand, later on, there comes up some difference there. Why, they would have you believe that under the law and Constitution he would have no right to interfere with anything going on at the University. Why, the Constitution expressly provides that he shall have the power to require reports from any of the officers, including the University Regents, and it is made even a penal offense for them not to comply with the request. And to say that the Chief Executive of the State would not have the power to inquire into the institution, for which he has approved an appropriation of such enormous magnitude, it seems to me would be unwarranted and not borne out either by just actions or the law of this State. But, they say, that he struck down this appropriation, and is, therefore, trying to destroy the University. Did you ever stop to think about it? Just get down to it, now, as man to man, and take it home to yourself—whether or not the Governor has had some reason to object to that money—such a large sum of money being expended in the way that it was; and, mark you, gentlemen, when you go to write your verdict in this case, just remember that every suggestion made by the Governor, and every

complaint that he lodged out there—that perhaps he spoke of the dismissal of four or five professors that he did not desire, and who had been dismissed under the Board of Regents before—every complaint that he lodged against the persons that he complained of out there, has been corrected. Now, remember that. You say that there was no ground for it in these charges. But remember that when you go to consider this matter, that every complaint that he made has been corrected.

Did he, as the Chief Executive of this State, receive proper treatment? I want to tell you right now, I have not known all of you very long, but I have known a few of you a few days, and I have seen some of you performing upon this floor, and I want to tell you that if some of you gentlemen that I know had been sitting down there in the Governor's office the day that he was reading an official document to that Board of Regents and had been waited on in the manner that he was down there that day, from the University, that what the Governor said, and his actions, would look, in the common parlance of the street, "would look like thirty cents" as to what some of you gentlemen would have done. I want to tell you that that act of itself was something that was an insult to the Executive. He then under his own oath of office, was in consultation with the Board of Regents in an effort to do the very thing for the sustaining and maintaining of that institution that he has testified he was devoted to, and always has been devoted to; and yet, while doing that, this insult was put upon him that has been testified to here by Mr. Butler and others; and there is no man of common intelligence, men who are actuated by the same motives that he and I, and every human being is, but would have taken offense at that transaction, and I dare say that those engaged in it have felt sorry for it. But, nevertheless, Governor Ferguson is just like all the rest of you who are human beings, and actuated by those same motives and characteristics that actuate you and me, and after receiving treatment of that kind, he did what we might say was a mistake—you might say that it was a mistake, I might admit that it was a mistake—and yet, withal, it

is no reason for preferring and sustaining against him charges of impeachment. I want to say to you, Senators, that the time will never come in the history of this State, when this record will be taken up and read from an impartial standpoint, that it can ever be said that there was established any case against this Respondent that would warrant the imposing upon this Respondent the severe pains and penalties of impeachment.

I want to revert back just a moment to that transaction up there in Temple. Slight circumstances indicate a great deal, and one of the slightest circumstances in this case to a man is sufficient to show beyond all question the motive that actuated this Respondent in that bank transaction up there. You remember there was a letter introduced in evidence here, after the witness had been excused and gone, that we had forgotten about, perhaps, knew nothing about it, just as the Respondent has forgotten many transactions. It developed afterwards that Mr. Blum—I believe his name is—had in his possession a letter written by Mr. Davis, perhaps under the Governor's direction, when this money was sent up there, not to loan that money in the Governor's account, not to increase their loans or to use it, clearly indicating the purpose in his mind not to use one dollar of that money.

Yet, when that letter was discovered out there it was not introduced in connection with the other. What does it show? Why, Mr. Harris says all that he wants is a fair and impartial trial. General Crane and he stated that, God knows that they would be glad if this man could show and convince this Senate and the people of Texas that he was guilty of no dishonest act,—saying that in substance, yet here is a letter written at the very time that that deposit was made especially instructing the bank not to use the money or loan it, and yet it is not introduced in evidence. Oh, it does not look to me that this is just, fair play. The Governor, perhaps, had forgotten he had ever written the letter, yet when it was introduced here for the consideration of you gentlemen, it was there in plain unmistakable words, the instructions given. Do you believe the Governor has stated to you truthfully when he says that he

kept no account of the condition of those accounts up there; that he depended largely upon Mr. Davis? Why, the very fact that there remains up yonder today something like twelve hundred and ninety-seven dollars—twelve hundred and ninety-seven dollars in the Temple State Bank today to his balance, that he had overlooked entirely; then down in the American National Bank a balance of some fifty dollars, shows that his attention was not directed to those matters as carefully, perhaps, as your attention or mine ought to be, but can you afford to judge the Governor from your standpoint or mine? That would be unjust because in proceedings of this character you are supposed to judge each and every man from the standpoint that he occupied at the time, and in that connection the Governor tells you that he was busy with the affairs of his office, first one thing then another constantly piling up on him, the border troubles and the troubles incident to the European war and this thing and the other, which forced him to leave the details of those matters to his private secretary, and which he did. Then to say that under conditions of that kind, without one syllable of evidence to establish it, that you would write a verdict saying that he was guilty of fraudulent practices, and dishonorable, I tell you Senators, as sure as there is a God in Heaven that watches over the destinies of men, I believe that it would be the cause for more sorrow, on your account, in years to come than any act that could possibly be ever done by you. I know that in transactions of this character, I know that when men become engaged in a political controversy and the feeling of men are aroused, and the bitter and ill will manifested towards another, then men lose their better judgment at times; but when you go to consider this matter under the solemn sanction of your oaths, I believe that all animosity, all hatred and bitter feelings will have been forgotten, and that each and every man will stand up in the God-given majesty of Texas manhood, and say by the eternals I will do my duty in this matter. And when you come to analyze the evidence of these charges, one after another, I don't believe that you can ever put your hands upon your hearts, and say that this Respondent ever fraudulently and in-

tentionally sought to defraud the State of Texas out of one penny, and that he does not owe the State of Texas one penny today and it would be indeed, a hard and trying procedure to say that upon an action that you cannot recover a civil judgment, to condemn a man, to disgrace him, to drive him from his office in disgrace, to which the people had elected him, upon such flimsy charges.

In this connection, I want to say to you that the spirit of the Constitution of this State which we all claim to revere, says that no man shall be placed in jeopardy for the same offense twice, and I want to say to you and I believe that is the spirit of Texas institutions and Texas government that we all ought to respect, the spirit of that Constitution, to a portion of these same charges, this bank investigation, and this chicken salad business, a portion of it and other charges here were investigated over yonder in the House and came out to the public and the report of the committee that made the solemn investigation, disclosed that it was not cause for impeachment, a great portion of these transactions. The Canyon City Normal was submitted to the people of Texas in the last campaign, on almost every stump where political discussions were had in Texas, and yet the people of this State, the great sovereign people that you talk about, have rendered their verdict and say that this Respondent is worthy of our vote and confidence, and if a man is to be hounded day and night, day after day, and never be an end to proceedings of this character, there would be absolutely no reason on earth for good men to offer themselves for office. Counsel for proponents say we have had big men in office in the past, and we are going to have big men in the future, men like Hogg and Ireland and Ross. Yes, we have had big men in Texas, and I want to say to you in all seriousness, God being my witness as I make the assertion, that when the future historian goes to write the history of this State from an unbiased and unprejudiced standpoint it will go down in history that James E. Ferguson's administration was one of the grandest and greatest, so far as the common laboring masses of this State are concerned. It may be that some will smile with derision when I make this statement,

but I want to say to you that the time will come when in sober judgment we come to consider, and years in the future, to see that this man, if he is condemned, has been condemned for having the courage and the manhood to stand up in the majestic splendor of his manhood and stand for what he considered to be the interest of the great toiling masses of this State. Yes, he can be condemned upon charges upon which civil judgments could not be rendered, but you can write a verdict and drive him from his office in disgrace—disgrace him and disgrace his children, his wife and his daughters. But, away out yonder in the humble cottages of the frontiers of Texas, and all over this land, sits the humble citizen, the great brawn and support of this grand old State of ours, who will have time to read these proceedings in the hours yet to come, and no matter what verdict or condemnation might be rendered against him here, he will have a verdict recorded in the hearts of the Texas people that will stand out in letters of electric light that never can be effaced from the pages of Texas history.

Take these charges up, one by one, and not a fraudulent criminal intent or motive can be discovered in establishing any of them,—and then to tell me that men could ever so far forget their duty to their State, to their country, to their fellow men, and to their God as to inflict such punishment upon this Respondent! God knows that I will never believe it until I see it written in your verdict.

I have stated to you that we are not here begging for mercy, but for God's sake do try to give us justice. God being my witness, and if I thought it would do any good, as I have stated, on an occasion before, I would be willing to get down on my knees in the dust to beg you, not for mercy, but beg you in the exercise of your solemn duty to your country to not allow prejudice to weigh against the destinies of this man, and I speak of him as a man now,—he is made of the same bone and flesh and blood that you and I are made of, actuated by the same feelings, and the same characteristics, and over yonder in that home sits his wife and two children, of

the same character of individuals as your wives and your daughters, and for the sake of them, and for his sake, I ask you in considering these matters to weigh the responsibilities carefully in the performance of that duty, and do to him as you would be done by. Oh, you say that those charges are sufficient by reason of the high power of the Governor, that a great responsibility devolves upon him, and a greater exaction required of him. Yes, the trouble is that a great exaction has been required of him, similar perhaps to the exaction required of the head of the Federal government; coming into office at a time when partisan politics ran high; men differ in opinions, and I want to tell you that this record bears it out here, that if this Respondent here is convicted of these charges, it will be in my mind unwarranted by the evidence in this case, and that he is guilty of no graver offense than in the solemn discharge of his duty of doing that which he conceived to be right. You may differ with him, I may differ with him,—we differ with each other every day. You all differ among yourselves. And whenever you condemn him upon those charges you are condemning him for the exercise of that same discretion and judgment that you demand for yourselves. Why, counsel for proponents say that he made a mistake in not going and paying back the appropriation that the Legislature made for him. They asked him on the witness stand: "Don't you know that the Constitution provided that you shall receive four thousand dollars and no more?" "Yes, no more salary than that." "Yet, you did not pay back this appropriation the Legislature gave." "Why, General, if the Legislature requires that I pay back the very appropriation that they made for me, why I will pay that back too, and place my check there with Chairman Fly at this time, or at any time that the Legislature will indicate that they desire me to return that appropriation." "The deficiencies I have already taken up."

Now, the Governor, mark you, is condemned for that action, but did you ever stop to think about it, if you are going to condemn him for a misconstruction of the Constitution, that you ought to condemn the Leg-

islature also? Is the Governor to be held to responsibility in one breath and the Legislature that made the appropriation be exempted and exonerated in the other? That seems to me would be a very unfair test. Are you going to lay down an established precedent by which you are going to hold the Governor to that superior knowledge of the Constitution and its requirements, and utterly exempt the members of the Legislature? Why, neither are to be condemned. It is just the same old story, the world over, that men make mistakes, and you make them every day, and whenever you see a man who tells you he is above reproach and never makes a mistake, why, you better begin to watch out for him right there. It is human to err, and I simply call your attention to this matter to say to you, and to appeal to you in all fairness, if you are going to condemn the Governor for a mistake of judgment for the manhood to assume the same responsibilities as affecting yourself, and not undertake to condemn for spending money which, according to the same theory of the proponents would be illegally appropriated. It is just simply a mistake of judgment, and reverts back to the proposition that I made at the outset that official discretion and judicial power can not occupy the same sphere at the same time.

Counsel for proponents say that we hope sometime in the future to have other great men in office, but I want to say to you Senators that if precedents of this character are to be established, when a man under his official oath and in the performance of his official duty, as guaranteed to him under the Constitution, is to be the subject for impeachment charges to be preferred against him, you will not find great men in office. Great men do not want office when it is shown by a record that in the discharge of their official duties they are to be pursued and articles of impeachment preferred against them. Whenever, as Governor Ferguson has told you on the stand, that he was performing his official duties as he understood them under the law, then to sustain articles of impeachment against him would be establishing a precedent, in my opinion, if I be allowed to state it, would be to do

more that was subversive of good government than anything on earth that could be done. I believe it would be for the best policy of this State that the separate branches of this government remain separate and distinct and without one encroaching upon the other, and I believe that the evidence here warrants me in making the further assertion that no man has striven more firmly to try to carry out that theory and provision of the Constitution than this Respondent.

Now, gentlemen, I have not discussed this matter charge after charge as they occurred, because it is so lengthy that it is almost impossible for any one speaking under the disadvantages that occur here, to take them up and go over them in detail, and I only referred briefly as I have, to them, and I am not going to undertake to cover them all, because I have not the time, but I want to try and impress upon you, if within my power, that it is the duty that will devolve upon you and you will have ample time to take them up, and I know that you will give them the consideration that they deserve. Some of them I have not referred to for the reason that I did not believe that I needed to refer to them before intelligent men.

There seems to be one great complaint against this Respondent that I am going to refer to, and which, from a legal standpoint, I believe there is nothing in, and that is Charge 11 of these charges. It is charged in there that the Governor, while before the Committee of the whole in the House stated that he had borrowed certain currency from people whose names he failed to disclose, and that by reason of having done so, that he is not only in contempt of the House, but his failure to disclose from whom he borrowed the money, constituted official misconduct. Of all the charges presented against Respondent here, it seems to me that, from a legal standpoint, that one has less foundation than any of them all. It only emphasizes the fact that I have stated before, of the danger of prejudice and suspicion being made the basis of judicial action. The Respondent, under his solemn oath, gentlemen, told you as far as his sacred promise would permit, all matters concerning

that transaction, and I believe that when you come to consider it in your solemn moments that you will attach to it the same conclusion that I do. Governor Ferguson told you that by reason of these investigations that he gradually found himself becoming involved in financial troubles, and not so much to save himself, but he tells you under the solemn injunction of his oath that for the best interests of the institution with which he was associated, he went to friends and they offered him this assistance. Oh, often it happens that men with the purest motives, having any dealings with officials of any character, are misjudged. And those friends said to him, as the testimony in this case shows, that they were willing and anxious to help him in his financial difficulties, but they made him to understand that "We don't want our names dragged through the political controversies of this State, we will let you have this money but we don't want to be known in it." He told you there was nothing devolving upon him to tell it, he voluntarily made the statement to you and told you further more on this witness stand, which is undisputed, that in order to try to tell you all about it, that he had sought to be relieved from that promise, and if there is anything on earth that would cause me to have confidence in the man I now represent it would be that statement that he made when he said "If the price of the Governor's office is the price that I am to pay to keep my word, I will keep it." But this is such a man that they would have you condemn. On what ground? Because he is in contempt of the House and because he borrowed the money from his friends he is guilty of official misconduct. Where is he in contempt of the House? Why, the very proceeding disproves it. The idea of saying in a court of justice that a man is in contempt of any body in the absence of some character of punishment, is almost of itself sufficient to dispute the assertion. To say that he was in contempt of the House, without requiring him to answer a question, and not making him answer it, that is a proceeding, gentlemen, that is not worthy of the construction of contempt. If the House had the power to make him answer that question,

in justice to this Respondent and instead of charging that he is guilty of contempt, they ought to have assessed a judgment there requiring him to answer the question, or punish him with some kind of fine or imprisonment. Yet, it is not done. It is still urged as a matter of contempt against him. Why, it was just like a proceeding in court, as I stated over in the House, that a district attorney could get up and say to a witness I asked you such and such a question, and the witness says I object on the ground that the Constitution of the State protects me; the judge of the court rules, Mr. Witness you must answer that question, and yet when he declines to answer on constitutional grounds, the district attorney would get up and say, "Well, if you put it on that ground, you need not answer it," and the trial proceeds. That is just the same attitude, that the charges are in here charging the Governor with contempt of the House, without making any effort to establish that the contention he makes is wrong when he stands upon his constitutional privilege. That is a matter for you to determine. It is a matter for you to pass upon. He tells you under his oath, that without any disrespect to this body, without any disrespect to that body over there, that under the Constitution of Texas which protects him and his property, that he must decline to answer that question. And the matter stands that way. But, to go further than that, and under his oath he tells you in all seriousness that that was an honest transaction, that was an open transaction, a transaction between himself and friends, when threatened with bankruptcy and ruin and without a single word of evidence to the contrary counsel in this case for the Proponents would have you gentlemen go off into the broad field of speculation and suspicion and condemn this Respondent for something that, so far as the evidence in this case shows, stands out as plain and honest, open and above board as any transaction that ever took place between any two individuals on earth.

Senators, if you are going to try this Respondent on suspicion, if you are going to try him on may-be-sos, and what he has not done here, then there would be no use for him to

make any defense. It is the first time in all of my life that I ever heard of a man being prosecuted and sought to be condemned on a mere negative statement that he refused to answer a question. One may say that "I had a suspicion that this money had an evil influence," another may have a suspicion that it was of a good influence, but in the absence of testimony, is the point that I am making, are you, under your solemn oaths of jurors and Senators, as men who want to give equal and exact justice to all, going to condemn a man upon a breath of suspicion that might be floating through the atmosphere, assailing this Respondent, drive him from office in disgrace, the people's office of Texas? I don't believe that it would be right or just, and I don't believe that you believe it. Establish a precedent of that character that on mere negative propositions and failures, and the fact that a man has the courage and the back-bone, if you please, to stand up and say that by the eternals, come what may, I will not break my word, that he is to be condemned and impeached, it certainly would be erecting the wrong standard. Of all men on earth that ever had the esteem of the Southern people, I believe that the one act of U. S. Grant, at the time when they were seeking at the end of the Civil War, to destroy and humiliate and imprison that matchless leader of the South, Robert E. Lee, then Grant came forward and said, "By the Eternals, you must not place him in prison. I gave my word and my word must not be broken." I will say to you that it makes no difference what the outcome of this trial may be, if I am permitted to continue my career in this grand old State of ours, the time will never come that I will not look back in admiration at the course pursued by this Respondent when he said to this Senate that he would rather give up the Governor's office now and here than to break his word with his friends who came to his rescue in an open and honest, honorable transaction, and whenever you by your verdict establish a precedent that men of that character are to be destroyed for the exercise of judicial discretion and what they conceded to be right, you are striking at the very foundation stone of the government of Texas itself. If that kind of a precedent is to be established that men's lives and

careers are to be destroyed upon a suspicion, I tell you in all seriousness that the bloom of youth, the strength of manhood and the glory of age may perish in the unworthy breath of suspicion and no one will be safe from its withering effects. My God, Senators, the time is come now that I am going to leave this matter with you. I have not discussed this matter as I should have discussed. God knows, that feeling the great responsibility resting upon me, as I have in this matter, I have been ill at ease to do my duty as it should have been performed, and I well realize it ought to have been performed by someone more capable than I, but in the discharge of that duty, earnestly and fearlessly from the standpoint of what I conceive to be my duty, I can only say that I believe that you are men who love Texas and her interests just as I do. I believe that you are men enough. I know that you have the best interests of your State at heart. On the other hand, I believe that you are men who would not for your right arm do any man an injustice, whether he be high or whether he be low. I believe that you are men who want to accord clear, exact and fair justice to all. I believe you are men who do not believe that the Prince in his Palace is entitled to any more protection than the peasant in his hovel, but I believe that above all, that you want to do what you conceive to be your duty, and with that in view, I want to appeal to you and ask you in the name of all that is fair and right and honest to take these charges and apply to them that judgment that you are capable of exercising, and judge this Respondent as you would like to be judged, from his standpoint were you occupying the same place, and when you do, and apply to it the procedure of trials and evidence, you might write a verdict that would say that possibly this Respondent has made mistakes of judgment that I would be glad had not been made. This Respondent has exercised his official discretion in a mistaken manner; applying to that your sound judgment, I do not conceive how it is possible that you could ever say that he had fraudulently, wilfully or corruptly sought to do the great State of Texas the slightest injury on earth, and what a mistake could be made. I want to say to you that if this Re-

spondent, experienced in all the vicissitudes of life, to which he has been subjected by his own strong right arm and brawn and determination, elevated by the people to the most exalted office within their gift, and then if he conscientiously, I care not how erroneously, yet conscientiously, he was trying to serve the people to the best of his skill and ability, and according to the best of his knowledge and belief, in matters confronting him, to drive him into infamy and shame and disgrace from that position, would be enough to cause him to lose confidence in mankind in general. I feel the responsibility of this occasion. I know you gentlemen feel it. I love my native State, born and reared almost within a stone's throw of this grand old granite capitol, and God knows that I would not for my right arm, if I know myself, be guilty of anything in the world that would destroy our grandness and greatness in the future, but God being my witness, from the surrounding in this case, and the testimony, and the witnesses that have been introduced here, I believe it would be the greatest mistake that was ever made by men exercising their own judgment to write a verdict of admonition against this Respondent which would be a reflection, not only upon him and his family, his relatives and friends, but a reflection upon the grand old State that we love. My God, can you conceive of a more horrible mistake that could be made, a man that had devoted his time, his best energies, his best judgment to the State that he loved and honored and then, unconscious of any wrong, although he may have made mistakes, but unconscious of wrong, to be driven in shame and infamy and disgrace from the elevated position to which the people had elected him,—it would be a cruel wrong and an injustice to him that could never be righted. Oh, it may be that those less interested, and having less interest in the welfare of our beloved State than you and I, might smile with derision at a statement like this, but carry it out when men devoted to the best interests of the State, and doing all they can to uphold you and yours, me and mine, to inflict a punishment like that on them, God knows the time would come in the history

of this country, and it might not be far off, when those smiles might be changed to frowns and those frowns might leave deep traces down which many a hot tear would flow, when in after years by the precedent which you now write the little school boy over yonder in your cabin who had fought his way through adversity and vicissitudes to the governor's office, might be driven from the same place, by the very precedent that you have written and established here. Oh, Senators, consider well your duty. If you conceive your duty to drive this man in disgrace from this office that the people have given him, after passing on some of these charges, do so. But, on the other hand, if you believe that this Respondent honestly and conscientiously made nothing more than a mistake of judgment, then have the God-given courage and the manhood to stand up in the might of that manhood and say that I will forget everything in the atmosphere of political partisanship and under my oath, so help me God, as I know you will do, I will render the verdict that is right and just, that verdict that will sustain the reputation of this Respondent, save to his wife and family that sorrow and that pain that we do not want to inflict upon the family of any man, the honor of our State will be upheld, the University made to go on in its grandeur and in its splendor and yet this man will be restored to office for the brief remaining time to which the people have elected him, and if any mistakes have been made the people of Texas in their sovereignty and their power can correct it.

In conclusion let me thank you Senators for sitting patiently here through this laboring effort of mine, but God being my witness I never felt a responsibility as I feel this, and I want to say to you that if the verdict in this case is such that renders shame and disgrace and infamy upon this man I'll walk out from this Capitol with him with a broken heart and believing that whatever follows the destiny of the men who wanted to do right and fair thing and give their lives over to the devotion of their country, that it looks like it is the destiny of those to be punished in that manner, and I leave here with a broken

heart, with sorrow and pain, that cannot be exceeded except by himself and his own devoted family. Do your duty, and when you do I believe that your verdict will be written that this Respondent is guilty of nothing more than a mistake of official discretion and nothing else. I thank you for your kindness.

Senator Bee: Mr. President, I move that the Court rise to meet at nine o'clock tomorrow morning.

The Chair: The Senator from Bexar moves that we rise to meet at nine o'clock in the morning. Those in favor of the motion signify it by saying "Aye," those opposed "No." The ayes have it and the Court will now rise to meet in the morning at nine o'clock.

In the Senate.

President Pro Tem Dean in the chair at 5:45 o'clock.

Bills and Resolutions.

(By unanimous consent.)

By Senator Johnson of Hall:

S. B. No. 31, A bill to be entitled "An Act to amend Chapter 63, local and special laws of the State of Texas passed at the Regular Session of the Thirty-fifth Legislature, which chapter is an Act to amend Section 2, Chapter 75, special laws of the Regular Session of the Thirtieth Legislature, 1907, being an Act to authorize, enable and permit the territory within the boundaries of the town of Estelline in Hall County, Texas, and other lands and territory adjacent thereto to incorporate an Independent School District for free school purposes only, etc., etc.; the said Act to be amended so as to change the boundaries thereof leaving certain sections of land out of the said Estelline Independent School District, and declaring an emergency."

Read first time and referred to Committee on Educational Affairs.

By Senator Smith:

S. B. No. 32, A bill to be entitled "An Act to regulate the sale of poisons, providing for marking and designating the packages or containers, and for the registration of the name and address of the pur-

chaser, requiring that all records be kept in well bound books, separate from all other records to be designated "Record of Poison Sales"; designating what poisons are meant, prescribing a penalty for violations of this Act, and declaring an emergency."

Read first time and referred to Committee on Public Health.

Message from the Governor.

Here Mr. S. Raymond Brooks appeared at the bar of the Senate with several messages from the Governor.

The Chair directed the Secretary to read the messages, which were as follows:

Governor's Office,

Austin, Texas, Sept. 21, 1917.

To the Thirty-fifth Legislature in Third Called Session:

I beg to submit for the consideration of your body the following subject:

Enactment of a law amending Chapter 63, local and special laws of the Thirty-fifth Legislature, creating and incorporating the Estelline Independent School District in Hall County, Texas.

Respectfully submitted,

W. P. HOBBY,

Acting Governor of Texas.

Governor's Office,

Austin, Texas, Sept. 21, 1917.

To the Thirty-fifth Legislature in Third Called Session:

I beg to submit for the consideration of your body the following subjects:

1. Enactment of a law to amend Article 3876 Revised Civil Statutes of 1911, fixing the compensation of county surveyors.

2. Enactment of legislation to create a more efficient road system for Red River County, Texas; making the county commissioners, ex officio road commissioners and providing for their compensation and defining their powers and duties.

Respectfully submitted,

W. P. HOBBY,

Acting Governor of Texas.

Adjournment.

At 5:50 o'clock p. m., Senator Gibson moved that the Senate ad-

journal until 8:45 o'clock tomorrow morning.

The motion prevailed.

APPENDIX.

Engrossing Committee Reports

Committee Room.

Austin, Texas, Sept. 21, 1917.

Hon. W. P. Hobby, President of the Senate:

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 29 carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room,

Austin, Texas, Sept. 20, 1917.

Hon. W. L. Dean, President Pro Tem. of the Senate.

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 27 carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Reports.

(Floor Report.)

Senate Chamber,

Austin, Texas, Sept. 21, 1917.

Hon. W. L. Dean, President Pro Tem. of the Senate.

Sir: Your Committee on Roads, Bridges and Ferries, to whom was referred

H. B. No. 18, A bill to be entitled "An Act to amend Sections 1, 2, and 6, Chapter 4, of the special laws of the Regular Session of the Thirty-fifth Legislature, 1917, entitled 'An Act to create a more efficient road law for Llano County, Texas,' etc., and declaring an emergency,"

Have had the same under consideration and beg leave to report the same back with the recommendation that it do pass and be not printed.

Caldwell, Chairman; Buchanan of Scurry, Strickland. Gibson, Floyd, Smith.

(Floor Report.)

Senate Chamber,

Austin, Texas, Sept. 21, 1917.

Hon. W. L. Dean, President Pro Tem. of the Senate.

Sir: Your Committee on Roads,

Bridges and Ferries, to whom was referred

H. B. No. 16, A bill to be entitled "An Act to amend Sections Nos. 2. and 14 of the Special Road Laws of Coleman County, Texas, etc., and declaring an emergency,"

Have had the same under consideration and beg leave to report the same back with the recommendation that it do pass and be not printed.

Caldwell, Chairman; Buchanan of Scurry, Strickland. Gibson, Floyd, Smith.

(Floor Report.)

Senate Chamber,

Austin, Texas, Sept. 21, 1917.

Hon. W. L. Dean, President Pro Tem. of the Senate.

Sir: Your Committee on Roads, Bridges and Ferries, to whom was referred

H. B. No. 21, A bill to be entitled "An Act to amend Chapter 104 of the Acts of the Regular Session of the Thirty-fifth Legislature of the State of Texas, entitled 'An Act to create a more efficient road system for Newton County, Texas,' etc., and declaring an emergency,"

Have had the same under consideration and beg leave to report the same back with the recommendation that it do pass and be not printed.

Caldwell, Chairman; Buchanan of Scurry, Strickland. Gibson, Floyd, Smith.

(Floor Report.)

Senate Chamber,

Austin, Texas, Sept. 21, 1917.

Hon. W. L. Dean, President Pro Tem. of the Senate.

Sir: Your Committee on Roads, Bridges and Ferries, to whom was referred

H. B. No. 28, A bill to be entitled "An Act to create a more efficient road system for Trinity County, Texas, etc., and declaring an emergency,"

Have had the same under consideration and beg leave to report the same back with the recommendation that it do pass and be not printed.

Caldwell, Chairman; Buchanan of Scurry, Strickland. Gibson, Floyd, Smith.

(Floor Report.)

Senate Chamber,
Austin, Texas, Sept. 21, 1917.

Hon. W. L. Dean, President Pro Tem.
of the Senate.

Sir: We, your Committee on Military Affairs, to whom was referred

S. B. No. 28, A bill to be entitled "An Act providing for the assignment of able-bodied male persons, between the ages of 19 and 50 years, inclusive, not regularly and continuously employed, to work in occupations carried on by the State, the counties of the State, the cities of the State, or by private employers, whenever, because of a state of war the Governor determines such assignments to be necessary for the protection and welfare of the State, and finds such occupations essential for the protection and welfare of the United States and this State, and that the same can not be carried on as the protection and welfare of the people of the United States and this State shall require without resort to this Act, no person to be assigned to any work he is not physically able to do; and providing for the procedure and means for rules and regulations for carrying this Act into effect, and for compensation to persons so assigned to work, and for penalties for non-compliance with this Act; and declaring an emergency,"

Have had the same under consideration and beg leave to report the same back to the Senate with the recommendation that it do pass and be not printed, but be printed in the Journal.

Robbins, Chairman; Johnson of Hall, Bailey, Harley, Suiter, Bee.

By Dayton. S. B. No. 28.

A BILL
To be entitled

An Act providing for the assignment of able-bodied male persons, between the ages of 19 and 50 years, inclusive, not regularly and continuously employed, to work in occupations carried on by the State, the counties of the State, the cities of the State, or by private employers, whenever, because of a state of war, the Governor determines such assignments to be necessary for the protection and welfare of the State, and finds such occupations essential for the protection and welfare of the United States and this State, and that the same can not be car-

ried on as the protection and welfare of the people of the United States and this State shall require without resort to this Act, no person to be assigned to any work he is not physically able to do; and providing for the procedure and means for rules and regulations for carrying this Act into effect, and for compensation to persons so assigned to work, and for penalties for non-compliance with this Act; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That whenever, because of the existence of a state of war, the Governor determines that it is necessary, for the protection and welfare of the people of this State, that all able-bodied male persons between the ages of 19 and 50 years, inclusive, hereinafter mentioned, be employed in occupations carried on by this State, the counties of this State, the cities of this State, or any of their agencies, or be employed in occupations carried on by private persons, firms or corporations, whether agricultural, industrial or otherwise, and which occupations, whether carried on by this State, the counties of this State, the cities of this State, or any of their agencies, or by private employers, firms or corporations or their agencies, the Governor of this State finds it to be essential for the protection and welfare of the people of this State and the United States, and also finds that the same can not be carried on as the protection and welfare of the people of this State and the United States require without resort to this Act, then the Governor shall be authorized, by proclamation, to require every able-bodied male person between the ages of 19 and 50 years of age, inclusive, within this State, not then or thereafter regularly employed or engaged in any lawful or useful business, occupation, or trade of any kind, to register forthwith his name, address, age, color or any other information which the Governor shall require, with the clerk of the county in which such person may be, or with the city clerk in cities of more than ten thousand population. It shall be the duty of said clerks, from time to time, upon request of the Governor, to furnish him with the lists of the names, addresses, ages, colors and such other information as

may have been obtained and registered, under the provisions of this Act. The Governor shall thereupon assign, or cause to be assigned, and, if necessary, reassign or cause to be reassigned, such persons to any occupations as aforesaid, carried on by his State, the counties of this State, the cities of this State or by private employers, firms or corporations engaged in occupations of the character above mentioned, and who accept the services of such persons, for a period which shall not in the case of any person exceed six continuous months at any one time. Persons so assigned must in every case be physically able to perform the work to which they are assigned. As soon as the proclamation has been issued, as herein provided, it shall be the duty of the Governor to prepare and publish such rules and regulations governing the assignment of persons to work under this Act as will assure that all persons similarly circumstanced shall, as far as it is possible to do so, be treated alike. In fixing the period of work to which any person is assigned, and in determining its nature, the Governor shall take into consideration the age, color, physical condition or any other appropriate circumstances of the person so assigned. The rules and regulations adopted under the provisions of this Act shall make allowances for such facts and circumstances. Any such person failing or refusing to do or to continue to do the work assigned to him, and who, in the meanwhile, has not become regularly or continuously employed in some business, occupation, trade or profession, shall, upon conviction before any court having criminal jurisdiction, be fined not more than five hundred dollars (\$500), or be imprisoned not more than ninety days, or by both such fine and imprisonment, in the discretion of the jury trying the case.

Sec. 2. That all persons able to support themselves by reason of ownership of property or income and those supported by others, shall be included among those required to register under this Act. All students and all persons fitting themselves to engage in trade or industrial pursuits shall not be included within the provisions of this Act.

Sec. 3. That after the issuance of the proclamation hereinbefore provided for, it shall be the duty of the sheriffs of the respective counties of

this State, and of any other officer, State, county or municipality charged with enforcing the law, to seek and to continue to seek diligently the names and places of residence and location of able-bodied male persons within their respective jurisdictions, between the ages aforesaid, not regularly or continuously employed as aforesaid, who have failed to register as aforesaid, and said officers shall obtain warrants for their arrest from any court including justice of the peace having criminal jurisdiction. Failure of such persons to register shall be a misdemeanor and shall be punished by a fine not exceeding two hundred and fifty dollars (\$250), or by imprisonment in the county jail not exceeding sixty days. The names of all those convicted under the provisions of this Act, together with all other information as aforesaid, shall be sent to the clerks of the county courts of this State. The said clerks shall register as aforesaid all persons convicted hereunder, and report such registrations to the Governor within thirty days after such persons have been convicted, and all courts before whom persons shall have been convicted, under this Act, shall certify the same to the county clerks of their respective counties within ten days after said conviction. Thereupon the Governor shall assign such person to work as provided in Section 1 of this Act.

Sec. 4. That all persons required to work under this Act shall receive compensation not less than the wages or salaries paid to others engaged in the same nature of work to which each such person is assigned. If any such person is assigned to work for any department, board or commission of the State, then the compensation of such person shall be paid him by such department, board or commission out of the appropriation made to it by the State. If any such person is assigned to work for any county or city or for any private employer, firm or corporation, then the compensation of such person shall be paid to him by such county, city, private employer, firm or corporation accepting his services under this Act. Any such private employer shall be required to execute a bond to the State, in such penalty and under such conditions and sureties as may be approved by the Secretary of the State, conditioned to guarantee the payment of such compensation as the same falls due. If

any such private employer, firm or corporation shall fail to pay to any such person the compensation so due him, then the same shall be paid by the State, out of any moneys in the State Treasury available therefor and not otherwise appropriated, or out of any moneys appropriated therefor; in the latter event, such payments to be made on the order and by the approval of the Governor, the same to be directed to the Comptroller, who shall draw his warrant upon the Treasurer for the amount thereof. In the event of such payment by the State, the said bond of such employer shall be in default, and shall be put in suit by the Attorney General. No person shall be required to work under this Act any greater number of hours per day than lawfully constitutes a day's work in the occupation in which such person is required to engage.

Sec. 5. The Governor is authorized to appoint or employ such assistants as may be necessary, and to use such agencies as may be available and appropriate, to aid him in carrying out the provisions of this Act.

Sec. 6. That the provisions of this Act shall not apply to persons temporarily unemployed, or not at work, by reason of differences with their employers.

Sec. 7. That this Act is hereby declared to be an emergency law and necessary for the immediate preservation of public safety, which creates an emergency and an imperative public necessity requiring the constitutional rule that all bills shall be read on three several days be suspended, and said rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Committee Room.

Austin, Texas, Sept. 21, 1917.

Hon. W. L. Dean, President Pro Tem of the Senate.

Sir: Your Finance Committee, to whom was referred,

H. B. No. 22, A bill to be entitled "An Act making additional appropriations for the support of the State government for two years, beginning September 1, 1917, and ending August 31, 1919," etc., and declaring an emergency,

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do

pass with the following amendments and same be not printed but printed in Journal.

(1) On page 2 under the subdivision headed judiciary, insert in line 2 of that portion of this subdivision making the appropriation after the word attorneys the words "and assistant district attorneys."

(2) In the judiciary section just named insert, after the word repealed and just above the section headed Adjutant General's Department the following: "to pay salaries of special district judges \$6000.00 \$6000.00." so there will be an appropriation of six thousand dollars for the year ending August 31, 1918, and August 31, 1919.

(3) Insert, immediately following the second amendment just above named and as a part of the judiciary division of this appropriation, the following: "to pay fees and costs of sheriffs, attorneys, assistant district attorneys and clerks, in felony cases, for the fiscal year ending August 31, 1916, \$23,500.00; and for the year ending August 31, 1917, \$34,250.00."

(4) On page 3 of the bill and just preceding the appropriation for the Department of Agriculture, insert a new item headed "Attorney General's Department, to pay porter, \$600.00 \$600.00," so that there will be an appropriation for the purpose stated for each of the two fiscal years for which this bill is making appropriations.

(5) On page 3, in paragraph devoted to Department of Agriculture, in lieu of the appropriation of \$2500.00 for each fiscal year to pay collecting, compiling, printing and disseminating agricultural information, printing blanks, forms, etc., there should be inserted in lieu of said items of \$2,500.00, items for the same purpose of \$5,000.00, for each of the two fiscal years for which this bill is making appropriations.

(6) Amend the caption by inserting after Treasury Department, in the fifth line just above the enacting clause, the following:

"Making the appropriation herein contained for the Judiciary Department applicable to assistant district attorneys, as well as to pay the fees and costs of sheriffs, attorneys and clerks, in felony cases; making an appropriation to pay salaries of special district judges for the two

fiscal years and to pay the salary of porter in the Attorney General's Department for the two fiscal years, and to pay fees and costs of sheriffs, attorneys, assistant district attorneys, and clerks, in felony cases, for the fiscal year ending August 31, 1916, and August 31, 1917."

Respectfully submitted,
HUDSPETH, Chairman.

By Mendell.

H. B. No. 22.

H. B. No. 22, A bill to be entitled "An Act making additional appropriations for the support of the State government for two years, beginning September 1, 1917, and ending August 31, 1919, as follows, to-wit: For the salaries of special district judges for fees and costs of sheriffs, attorneys and clerks in felony cases, for the salary of Assistant Adjutant General and the quartermaster of the Adjutant General's Department, for the salary of the Chief Inspector of Nurseries, and other specified items for the Department of Agriculture, for the salary of the State Revenue Agent, for the salary of the Chief Deputy of the Game, Fish and Oyster Commissioners' Department, for the salary of the Bacteriologist of the State Health Department, for the salary of the Commissioner of Labor, for the salaries of four inspectors in the Labor Department, for the salaries of two chemists in the Pure Food Department, for the salaries of two inspectors in the Pure Food Department, for the salaries and expenses for collecting fees under the Pure Food Laws, for stamps to be used in the collection of fees in the Pure Food Department, for the salary of the Superintendent of the State Orphan's Home, for the salaries of twelve non-graduate nurses for the first year at Tuberculosis Sanatorium, for salaries of three assistants to the Inspector of Masonry and for material tests and analyses, long distance telephones, telegraph, express and freight charges and incidentals and traveling expenses for the Department of Inspector of Masonry, salary of one additional clerk

to the State Treasury Department, and to pay miscellaneous claims and for other purposes; prescribing certain regulations and restrictions in respect thereto; repealing parts of laws heretofore passed making appropriations for the particular items named in this bill, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That the following sums of money, or so much thereof as may be necessary, be and the same are hereby appropriated out of any money in the State Treasury not otherwise appropriated for the support of the State Government from September 1, 1917, to August 31, 1919; provided, that each and every employe of each and every institution or department of this State shall be paid by voucher issued in his or her name; and said voucher shall state the amount of salary or sum due and services performed, with the date and time of said services, and no money or moneys shall be paid except upon presentation of said voucher or vouchers endorsed by the payee; provided, further that all of said vouchers upon which any money or moneys have been paid shall be filed with the Comptroller for the inspection of the Governor (and the Legislature or by their authority or at the request of any citizen of this State; and, provided, further, that correct accounts shall be kept for all sums paid, or obligations outstanding against each item of appropriation herein, and weekly statements of the net balances to the credit of each account, after all payments made and obligations outstanding have been deducted, shall be forwarded to the State Comptroller, and it shall be unlawful for the State Purchasing Agent or the authority in charge of any institution or department of this State to purchase or issue orders for any supplies or otherwise pledge the credit of this State beyond the amounts herein appropriated or otherwise lawfully authorized.

	For Year Ending	
	Aug. 31, 1918	Aug. 31, 1919
Judiciary.		
To pay fees and costs of sheriffs, attorneys, assistant district attorney and clerks in felony cases	\$341,150.00	\$359,150.00
This appropriation to pay costs of sheriffs, attorneys and clerks in felony cases is in lieu of an appropriation for like sums made at the First Called Session of the Thirty-fifth Legislature to pay costs of sheriffs and clerks in felony cases, and the appropriation so made at said called session is hereby repealed.		
Adjutant General's Department.		
To pay salary of Assistant Adjutant General	2,000.00	2,000.00
To pay salary of Quartermaster in Adjutant General's Department	2,000.00	2,000.00
Department of Agriculture.		
To pay salary of Chief Inspector of nurseries	2,000.00	2,000.00
To pay salary of Plant Pathologist, chief of the Department of Plant Pathology..	2,100.00	2,100.00
To pay expenses for chief in culture and propagation of edible nuts.....	1,000.00	1,000.00
To pay expenses for chief on improvement of live stock and dairying	1,000.00	1,000.00
To pay expenses of plant pathologist.....	1,000.00	1,000.00
To pay collecting, compiling, printing and disseminating agricultural information, printing blanks, forms, etc.	2,500.00	2,500.00
To pay for stationery, postage, telegraph, telephone and express, additional.....	3,000.00	3,000.00
To pay claim of A. C. Baldwin & Sons for printing during the fiscal year, ending August 31, 1917	803.04	.....
State Revenue Agent.		
To pay salary of State Revenue Agent....	2,100.00	2,100.00
Game, Fish and Oyster Commissioners' Department.		
To pay salary of chief deputy of the Game, Fish and Oyster Commissioner.....	2,000.00	2,000.00
State Health Board.		
To pay salary of chemist and bacteriologist	2,100.00	2,100.00
Bureau of Labor Statistics.		
To pay salary of Commissioner of Labor..	2,400.00	2,400.00
To pay salary of four inspectors.....	7,200.00	7,200.00
Pure Food Commissioner.		
To pay salary of two chemists.....	4,800.00	4,800.00
To pay salary of two inspectors.....	3,000.00	3,000.00
For salaries and expenses for collecting fees under the pure food laws, such fees when collected to be turned into the State Treasury to the credit of the General Revenue	2,500.00	2,500.00
For stamps to be used in the collection of fees pure food department	300.00	300.00
State Orphan's Home.		
To pay salary of Superintendent of the State Orphan's Home, together with provisions for himself and family not to exceed		

	For Year Ending	
	Aug. 31, 1918	Aug. 31, 1919
\$500.00 per annum with fuel, lights, laundry, water and housing	2,000.00	2,000.00
Tuberculosis Sanatorium.		
To pay salaries of twelve non-graduate nurses, first year	2,880.00	.....
Inspector of Masonry, Public Buildings and Works Department.		
To pay salary of three assistant inspectors of Masonry, as provided for in Chapter 12, Acts Regular Session of the Thirty-third Legislature	5,400.00	5,400.00
To pay for material tests and analyses, long distance telephone, telegraph, express and freight charges, incidentals pertaining to the supervision of the State buildings and for traveling expenses of the three assistants named above, and the State Inspector of Masonry	3,775.00	3,775.00
Miscellaneous Claims.		
To pay balance to R. E. Miller for construction of septic tank for the State's Orphan's Home	257.44	.....
To pay the following claims presented by the Superintendent of the State's Orphans Home, to wit:		
Morris & Company	60.08	.....
S. W. Electric Company	15.50	.....
W. H. Richardson & Company ..	13.00	.....
Kirby Instrumental Company ..	372.18	.....
To refund unexpired wholesale liquor license of Anderson & Baggett of Freestone county, 1914	185.28	.....
To refund unexpired wholesale liquor license of H. F. Trahin, Freestone county 1914	216.90	.....
To refund to liquor dealers the proportionate amount of taxes heretofore paid by them for the unexpired term of their license as retail malt and liquor dealers under all sections and provisions of law authorizing refunds up to August 31, 1919, to be paid by the Comptroller on verified and approved accounts	50,000.00	.....
To refund wholesale liquor dealers the proportional amount of taxes heretofore paid by them for the unexpired term of the license as wholesale liquor dealers under the provisions of the law authorizing refunds up to August 31, 1919, to be paid by the Comptroller on verified and approved accounts	10,000.00	.....
To pay salary of one additional clerk for State Treasury Department, to be known as the assistant appropriation clerk....	1,200.00	1,200.00
To pay claim of R. M. Johnson for services rendered as special district judge for the Third Judicial District	120.62	.....

Sec. 2. Provided, that no money herein or hereby appropriated for any purpose shall be paid to any person directly or indirectly who is not at the time of receiving such pay, remuneration or emolument, a citizen of the United States under the laws of the United States. Provided, however, that this Act shall not apply to any person who is not a citizen of the United States under the naturalization laws of the United States who has resided in Texas for a period of ten years and who shall within thirty days after this Act shall take effect make application to become a citizen of the United States, and who shall within two years after making such application become a citizen of the United States; this provision shall apply to and govern all appropriations made in this entire Act.

Provided, that the head of said departments keep a record of the absences of the various employes and the reasons therefor, whether from sickness, vacation or on leave of absence, and said record shall be incorporated in the report made annually by the head of said department.

The appropriations herein provided for are to be construed as the maximum sums to be appropriated to and for the several purposes named herein, and no expenditures shall be made, nor shall any obligations be incurred which, added to the actual expenditures, will exceed the amounts herein appropriated for either of the said purposes, except under the provisions provided for in Article 4342 of Chapter 2, Title 65 of the Revised Civil Statutes of 1911.

Provided, that no money herein or hereby appropriated for any purpose shall be paid out to any person directly or indirectly upon any agreement or contract made or existing between such person and the board authorizing the payment of the same, where any member of such board is of kin to such person by blood or marriage or where such person is directly or indirectly indebted to any member of such board.

Sec. 3. All parts of laws hitherto passed making appropriations for the identical items covered by this appropriation bill are hereby repealed.

Sec. 4. The fact that various errors were made in the enrollment of the various appropriation bills for the support of the State Government, both of commission and omission, and that in some respects the appropriations made do not conform to the statutes, and the fact that this is a called session of the Legislature which under the Constitution must end within a few days, create an emergency and an imperative public necessity which requires that the constitutional rule providing that bills shall be read on three several days be suspended, and said rule is hereby suspended, and that this Act become effective from and after its passage, and is so enacted.

Enrolling Committee Report.

Committee Room.

Austin, Texas, Sept. 21, 1917.

Hon. W. L. Dean, President Pro Tem. of the Senate:

Sir: Your Committee on Enrolled Bills beg leave to report that we have carefully compared Senate Bill No. 13, copy of which accompanies this report, and find the same correctly enrolled and have this day at 9:20 o'clock a. m. presented same to the Governor for his approval.

SMITH, Chairman.

By Buchanan of Bell. S. B. No. 13.

"An Act to establish and maintain at the Ferguson State Farm in Madison county, Texas, a school for the education and training of delinquent and incorrigible negro boys, to be named and known as the State Training School for Negro boys, the government and management of which shall be vested in the Board of Prison Commissioners of this State; the said Board of Prison Commissioners shall manage and control said institution in accordance with the law, rules and regulations now governing the State Juvenile Training School for Boys, located in Coryell County, Texas, so far as said law, rules and regulations are applicable and practicable. Said Board of Prison Commissioners shall have the same powers in the management of said institution as are now conferred by law upon the Board of Trustees of the State

Juvenile Training School for Boys located in Coryell County, Texas, and all negro boys that are now confined in the State Juvenile Training School for Boys, located in Coryell County, Texas, shall as soon as this law be passed and take effect, be transferred to the Ferguson State Farm in Madison County, and said transfer be made not later than January 1, 1918, by said Board of Prison Commissioners, and all negro boys under the age of seventeen (17) years who shall hereafter be convicted of felony or other delinquency under the laws of this State, in any Court in this State, shall be confined in the institution known as the State Training School for Negro Boys, and that the sum of twenty-five thousand (\$25,000.00) dollars be and is hereby appropriated out of any funds now in the State Treasury not otherwise appropriated, to be used by said Commissioners in making said transfer and otherwise carrying out the purposes of this Act; and declaring an emergency.

Whereas, the Acts of the First Called Session of the Thirty-fifth Legislature, page 93, appropriated and set apart the sum of \$50,000.00 to purchase land for the State Juvenile School at Gatesville, which sum the Board of Managers of said institution refused to expend and same has thereby reverted to the General Fund of the State; and there is absolute need of some place to take care of negro juveniles, separate and apart from whites, and such place can be provided by the expenditure of one-half the sum which is above referred to;

Now, therefore,

Be it enacted by the Legislature of the State of Texas:

Section 1. There shall be established and maintained at the Ferguson State Farm in Madison County a school for the education and training of delinquent negro boys, to be named and known as the State Training School for Negro Boys, the government of which shall be vested in the Board of Prison Commissioners of this State. The said Board of Prison Commissioners shall manage and control said institution in accordance with the law, rules and regulations now governing the State Training School for Boys, located in

Coryell County, Texas, so far as said law, rules and regulations are applicable and practicable. Said Board of Prison Commissioners shall have the same powers as are now conferred upon the Board of Trustees of the State Juvenile Training School and the State Training School for Boys, in the management of the institution, known as the State Training School for Negro Boys.

Section 2. All negro boys that are now confined in the State Training School for Boys, located in Coryell County, Texas, shall, as soon as this law be passed and take effect, and not later than January 1, 1918, be transferred to the Ferguson State Farm in Madison County, by the said Board of Prison Commissioners, and the Board of Trustees of the said State Juvenile Training School for Boys are hereby authorized and are required to deliver to said Board of Prison Commissioners all negro boys now confined in said institution, in order that they may be transferred to the Ferguson State Farm.

Section 3. Hereafter all negro male persons under the age of seventeen (17) years, who shall be convicted of a felony or other delinquency, in any court within this State, unless his sentence be suspended or provided by law, or otherwise disposed of, or unless by reason of the length of the term for which he is sentenced, he is required under the law to be confined in the State Penitentiary, shall be confined in the State Training School for Negro Boys.

Section 4. The Board of Prison Commissioners shall set apart for the use of the State Training School for Negro Boys, all necessary grounds, lands, equipments, buildings, etc., now under the supervision of said Board of Prison Commissioners at the Ferguson State Farm, which shall be used for the State Training School for Negro Boys, provided that the unexpended balance of the public free school fund apportioned to said Colored Juveniles at Gatesville in Coryell County be transferred for their credit to Madison County.

Section 5. All laws and parts of laws in conflict with this Act are hereby expressly repealed. The appropriation of \$50,000.00 for the purchase of land, made at the first

called session of the Thirty-fifth Legislature, shown on page 93 of the said special or called session, is hereby in all things repealed.

Section 6. That the sum of Twenty-five thousand (\$25,000.00) Dollars be and is hereby appropriated out of any funds now in the State Treasury, not otherwise appropriated, to be used by said Commissioners in making this transfer and otherwise carrying out the provisions of this Act.

Section 7. The crowded condition of the calendar at this time creates an emergency and an imperative necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is hereby suspended, and this Act shall take effect from and after its passage, and it is so enacted.

SEVENTEENTH DAY.

Senate Chamber,
Austin, Texas,
Saturday, Sept. 22, 1917.

The Senate met at 8:45 o'clock a. m. pursuant to adjournment, and was called to order by President Pro Tem. Dean.

The roll was called, a quorum being present, the following Senators answering to their names:

Alderdice.	Hopkins.
Bailey.	Hudspeth.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Caldwell.	McCollum.
Clark.	McNealus.
Collins.	Page.
Dayton.	Parr.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Suiter.
Hall.	Westbrook.
Harley.	Woodward.
Henderson.	

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Alderdice.

Petitions and Memorials.

There were none today.

Committee Reports.

See Appendix.

Bills and Resolutions.

There were none at this time.

Motion Pictures Permitted.

Senator McNealus asked for unanimous consent to have the shades above the chamber removed for today in order that there might be sufficient light in the Chamber to permit the making of pictures of the trial.

There was objection by Senator Hopkins.

Senator Westbrook moved the Sergeant-at-Arms be instructed to remove the shades from the ceiling of the Senate Chamber for the purpose of permitting pictures to be made of this trial.

The motion prevailed.

Special Rule for Impeachment.

Senator Lattimore offered the following:

To the Honorable Senators of Texas:

We, your committee on Rules respectfully submit for the approval of the Senate Special Rule No. 1 as follows:

When the argument of Counsel for each side shall have been concluded the Chair shall announce the Senate is now ready to vote upon the Articles of Impeachment and shall direct the Secretary of the Senate to read said articles separately and as each article is read shall direct the Secretary of the Senate to call the roll and as the name of each Senator is called he shall arise in his place and announce his vote as guilty or not guilty.

When all of said charges shall have been read and voted upon the Chair shall appoint a committee of three Senators to formulate and present to the Senate for its approval a formal judgment to be entered in the Journal and certified to the proper officer.

DEAN,
LATTIMORE.

The rule was read and upon ob-